

Gregory F. Coleman\*

**MILBERG COLEMAN BRYSON**

**PHILLIPS GROSSMAN PLLC**

800 S. Gay Street, Suite 1100

Knoxville, TN 37929

T: 865-247-0080/F: 865-522-0049

gcoleman@milberg.com

Daniel K. Bryson\*

J. Hunter Bryson\*

**MILBERG COLEMAN BRYSON**

**PHILLIPS GROSSMAN PLLC**

900 W. Morgan St.

Raleigh, NC 27603

T: 919-600-5000/ F: 919-600-5035

dbryson@milberg.com

hbryson@milberg.com

\* admitted *pro hac vice*

[Additional Attorneys on Signature Page]

*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

JOHN CHESS, on behalf of himself and all  
others similarly situated,

Plaintiff,

v.

VOLKSWAGEN GROUP  
OF AMERICA, INC.,

Defendant.

Case No.: 4:17-cv-07287-HSG

**FOURTH AMENDED CLASS ACTION  
COMPLAINT**

**DEMAND FOR JURY TRIAL**

**FOURTH AMENDED CLASS ACTION COMPLAINT**

1. Plaintiff<sup>1</sup> John Chess (“Plaintiff”), individually and on behalf of all others similarly situated, by and through the undersigned counsel, hereby set forth their claims against Defendant Volkswagen Group of America, Inc. (“Defendant” or “Audi”) in this class action complaint. Plaintiff alleges the following based upon personal knowledge as to his own acts, and based upon the investigation conducted by his counsel, as to all other allegations:

**NATURE OF THE CASE**

2. This proposed class action is brought by Plaintiff who alleges that defective direct-shift gearbox (“DSG”) transmissions also referred to as “S-tronic transmissions” are installed in the following vehicle models and model years: 2010-2012 Audi S4 and 2010-2012 Audi S5; (the “Class Vehicles”) sold or leased to consumers, including Plaintiff, throughout the United States.

3. The Class Vehicles were sold or leased pursuant to express and implied warranties. Every class vehicle is backed by a 48-month/50,000-mile express New Vehicle Basic Limited Warranty (“Limited Warranty”). This warranty expressly covers any repairs needed to correct defects in materials or workmanship, and specifically applies to the engine, transmission (including the DSG) and transaxle, drivetrain, front-wheel-drive system, and rear-wheel drive system. This warranty expressly applies to all original purchasers and lessees throughout the United States. These warranties also transfer to subsequent purchasers. The express warranties assured consumers that Audi would repair or replace any part that is defective in materials or workmanship under normal use and the Class Vehicles were properly equipped for the use for which they were intended. At the time each class vehicle was sold or leased, Audi breached its express and implied warranties because each class vehicle was equipped with a dangerous and defective transmission.

---

<sup>1</sup> The Complaint, Doc. 1, included Plaintiffs Brian Gillard and Shant Bakalian. Plaintiff Brian Gillard was voluntarily dismissed in March 2018. *See* Doc. 12. Plaintiff Shant Bakalian, likewise, was voluntarily dismissed in April 2018. *See* Doc. 49. Plaintiffs Mike Madani and Romsin Oushana also voluntarily withdraw their claims. In this Court’s order, Doc. 84, dated August 8, 2019, Plaintiffs Eric Walley, Richard DeVico, and Michael Warchut’s claims were dismissed with prejudice.

1           4.       The transmissions in all of the Class Vehicles are defective. The transmissions cause  
2 sudden, rough, unexpected shaking, and violent jerking (commonly referred to as “juddering” or  
3 “shuddering”) when drivers attempt to accelerate Class Vehicles and shift into 2nd, 3rd, or 4th gear and  
4 attempt to decelerate. Further, Class Vehicles exhibit clunky downshifting and inhibited gear shifting.  
5 For example, the transmissions hesitate before responding to a driver’s input on the accelerator pedal,  
6 which prevents Class Vehicles from accelerating as intended by the driver, especially when accelerating  
7 from a complete stop. The Class Vehicles power surges while driving. The transmissions cause a hard  
8 downshift or clunk when drivers either slow down or accelerate at low speed (herein referred to as the  
9 “transmission defect”).

10           5.       The shuddering, juddering, hesitation of acceleration, surge, and hard clunk described  
11 above are all manifestations of the transmission defect in the Class Vehicles.

12           6.       Audi sold, leased, and continues to sell and lease the Class Vehicles despite knowing of  
13 the transmission defect.

14           7.       Audi has chosen financial gain at the expense of the safety of drivers and the public by  
15 failing to disclose its knowledge of this critical safety defect to consumers.

16           8.       Audi knew or should have known about the safety hazard posed by the transmission defect  
17 before the sale of the first Class Vehicles from various sources, including but not limited to: pre-market  
18 testing, warranty claims, NHTSA, internal complaints, and other sources. These sources of information  
19 and knowledge underlie Audi’s Technical Service Bulletins (“TSBs”) acknowledging problems with the  
20 transmissions of Class Vehicles. Audi should not have sold, leased, or marketed the Class Vehicles  
21 without a full and complete disclosure of the Class Vehicles’ transmission defect, and should have  
22 voluntarily recalled the Class Vehicles as soon as Audi knew the extent and pervasiveness of the defect.

23           9.       Plaintiff brings this action on behalf of himself and all others similarly situated (“Class,”  
24 “Subclass,” “Class Members,” or “Subclass Members”) for Audi’s breach of express warranty as well as  
25 violation of the Magnuson-Moss Warranty Act, California Legal Remedies Act (“CLRA”), California’s  
26 Unfair Competition Law, and injunctive and declaratory relief, restitution, disgorgement of profits,  
27 attorneys’ fees and costs, and the repair or replacement of Class Vehicles or refund of money paid to own  
28 or lease all Class Vehicles in the United States.

**JURISDICTION AND VENUE**

10. The United States District Court for the Northern District of California has subject matter jurisdiction over this action pursuant to the Class Action Fairness Act because there is minimal diversity, the proposed Class and Subclass each exceeds one hundred members, and the matter in controversy exceeds the sum or value of \$5,000,000 exclusive of interests and costs. 28 U.S.C. § 1332(d)(2)(A).

11. The United States District Court for the Northern District of California can exercise personal jurisdiction over Audi because Audi's actions summarized in this complaint occurred in this District subjecting Audi to specific jurisdiction in this District.

12. The United States District Court for the Northern District of California can exercise supplemental jurisdiction over Plaintiff's state-law claims pursuant to 28 U.S.C. § 1367.

13. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a)-(c). Audi does substantial business in the State of California and within this Judicial District, is registered to and is doing business within the State of California, and otherwise maintains requisite minimum contacts with the State of California. Audi distributes Class Vehicles in this District and receives substantial compensation and profits from the sale and lease of Class Vehicles in this District. Additionally, Plaintiff is domiciled in this District, purchased a Class Vehicle in this District, and had his vehicle serviced in this District.

**PARTIES**

14. Plaintiff John Chess, a proposed Class and Subclass representative, is an adult citizen of California who resides in Pleasanton (Alameda County).

15. Defendant Volkswagen Group of America, Inc. is a corporation organized and in existence under the laws of the State of New Jersey. At all times relevant herein, Volkswagen Group of America, Inc. was engaged in the business of designing, manufacturing, constructing, assembling, marketing, distributing, and selling automobiles and other motor vehicles and motor vehicle components in California and throughout the United States of America.

## **GENERAL ALLEGATIONS**

### **Audi Knowingly Sold Defective Vehicles to Consumers.**

16. In August 2009, prior to the sale of any of the Class Vehicles in this case, Audi issued a voluntary recall for the Audi A3, TT Coupe, TT Roadster, in addition to VW Eos, Jetta Sedan, and Jetta Sportwagen, due to DSG transmission failures that caused the vehicles to lose power and go into “limp mode” while being driven.<sup>2</sup>

17. The DSG transmissions that were the center of the recall within the vehicles is the same type of DSG transmission within the Class Vehicles.

18. Since 2009, Audi has been aware of defects surrounding the DSG transmissions.

19. Yet, Audi only decided to recall the 2009-2010 Audi A3, TT, and TT Roadster, rather than all of the models in its product line that had the DSG transmissions (*e.g.*, 2009 S4, S5, S6, and S7 models).

20. As part of the recall, Audi extended the warranties for the 2009-2010 Audi A3, TT, and TT Roadster to 10 years/100k and reimbursed those who had already incurred out of pocket expenses from repair to their defective DSG/S-tronic transmissions.

21. Per NHSTA, the investigation into this recall started in July 17, 2009 and lasted until November 19, 2009, prior to a sale of any Class Vehicle in this case.

22. NHSTA’s investigation states in part:

THE SUBJECT VEHICLES ARE EQUIPPED WITH DIRECT SHIFT GEARBOX (DSG) TRANSMISSIONS, WHICH FEATURE A 6-SPEED AUTOMATIC GEARBOX WITH TWO WET RUNNING CLUTCHES (DUAL CLUTCH) IN WHICH THE CLUTCH MECHANISM AND GEAR CHANGES ARE ELECTROHYDRAULICALLY OPERATED BY A MECHATRONIC CONTROL UNIT. THE DSG MECHATRONIC CONTROLLER INCLUDES EXTENSIVE SELF DIAGNOSTIC FUNCTIONS AND STRATEGIES TO ENSURE SAFE OPERATION AND PREVENT SYSTEM/COMPONENT DAMAGE IN THE EVENT OF COMPONENT FAILURES OR HARSH OPERATING CONDITIONS. THE BASIC HIERARCHY OF FAULT MODES INCLUDES SOME THAT ONLY RESULT IN THE STORAGE OF A DIAGNOSTIC TROUBLE CODE (DTC) AND

---

<sup>2</sup> See <https://www.carscoops.com/2009/08/vw-and-audi-models-recalled-over-two>.

CAUSE NO LOSS OF FUNCTION, SOME THAT STORE A DTC AND REDUCE VEHICLE OPERATION TO A LIMP HOME MODE, AND SOME THAT STORE A DTC AND CAUSE AN INTERRUPTION OF MOTIVE POWER (I.E., OPEN CLUTCH). THE DRIVER IS ALERTED TO THE LATTER TWO MODES BY THE DASH GEAR POSITION INDICATOR (PRNDS) FLASHING.

ODI ALSO IDENTIFIED COMPLAINTS OF HARSH/JERKY SHIFTING IN SOME VOLKSWAGEN VEHICLES WITH DSG. VOLKSWAGEN ATTRIBUTED THIS CONDITION, WHICH TYPICALLY OCCURS AT VERY LOW SPEEDS, TO EXCESSIVE WEAR IN THE BUSHINGS OF THE TWO SOLENOID VALVES IN THE MECHATRONIC UNIT THAT CONTROL CLUTCH OPERATION. VOLKSWAGEN DOES NOT BELIEVE THAT THIS CONDITION IS A SAFETY DEFECT BECAUSE THE CHANGES IN SHIFT QUALITY DEVELOP GRADUALLY OVER TIME, DO NOT CAUSE A LOSS OF MOTIVE POWER AND HAVE NOT RESULTED IN ANY FATALITIES, INJURIES OR SERIOUS CRASHES (THERE WERE THREE REPORTED PROPERTY DAMAGE INCIDENTS RESULTING IN MINOR BODY DAMAGE IN VERY LOW SPEED, PARKING MANEUVERS). VOLKSWAGEN ADDRESSED THIS PROBLEM IN THE FIELD WITH A CUSTOMER SERVICE PROGRAM THAT INCLUDES THE REPLACEMENT OF POTENTIALLY AFFECTED MECHATRONIC UNITS AS WELL AS A 10 YEAR/100,000 MILE EXTENDED WARRANTY.

**THIS INVESTIGATION IS CLOSED WITH VOLKSWAGEN'S RECALL OF THE DEFECT CONDITION THAT MAY RESULT IN A LOSS OF MOTIVE POWER WHILE DRIVING.<sup>3</sup>**

23. Accordingly, as of the 2009 NHSTA investigation conducted on the A3 models, Audi was aware the S-tronic or DSG Gearbox transmissions had the ability to go “limp” and “reduce[] vehicle operation.”<sup>4</sup>

24. The NHSTA’s investigation further revealed that the DSG transmissions have “harsh/jerky shifting in some Volkswagen Vehicles with DSG.”<sup>5</sup>

25. At least as of the November 2009 conclusion of the NHSTA’s investigation, Audi had knowledge that (1) their DSG Transmissions were defective; (2) such defect was present in the DSG of other models sold or intended to be sold; and, (3) the defect would manifest as harsh, jerky shifting, and loss of power.

26. Although Audi had pre-sale notice that the Class Vehicles contained the defective DSG Transmissions, Audi sold the Class Vehicles.

---

<sup>3</sup> See NHTSA ACTION NUMBER: PE11023 “VEHICLE STALL/LOSS MOTIVE POWER” <https://www.nhtsa.gov/vehicle/2009/AUDI/A3#investigations> (emphases added).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

1           27. Also in 2009, “Good Morning America” questioned Volkswagen regarding the issues  
2 surrounding the models that led to Audi instituting the recall in addition to the NHSTA investigation.<sup>6</sup>

3           28. Drivers were experiencing issues similar, if not identical, to those suffered by Plaintiff  
4 and those described in the NHSTA complaints for the Class Vehicles: “Lisa Toler let the dealership repair  
5 her transmission, but she’s still uneasy, especially because she had four kids in her car when it stalled on  
6 the highway. ‘My kids didn’t wanna get in the car again after it was fixed,’ she said. ‘They’re like, ‘Is  
7 this car gonna break down on us?’”<sup>7</sup>

8           29. Years prior to Plaintiff’s vehicle purchase in 2010, the safety defect in the DSG  
9 Transmissions of Class Vehicles was well known to Audi from, at a minimum, both the NHSTA  
10 investigation and the extensive press coverage.

11           Audi began manufacturing Class Vehicles in approximately the middle of 2009.

12           30. Class Vehicles were first sold or leased to members of the Class and Subclass in  
13 approximately September 2009.

14           31. However, it would take two years before Audi openly acknowledged the DSG  
15 Transmission defect in the Class Vehicles via TSB No. 2027295 that Audi knew about from the recall  
16 and NHSTA investigation over the same DSG Transmission issue in the 2009 A3s and Volkswagens  
17 before a single Class Vehicle was sold to Plaintiff or the Class.

18           32. In September 2011, Audi issued TSB No. 2027295 to remedy “clacking or knocking  
19 issues” that “differ depending on driving situation or temperature” for the S4 and S5 Cabriolet models.

20  
21  
22  
23  
24  
25  
26  
27  
28 <sup>6</sup> <https://abcnews.go.com/GMA/story?id=8378724>.



33. As shown below, Audi says that these issues are “normal” despite these noises being indicative of a transmission issue that involves a real and severe safety risk to the Class Members.

34. Further, the TSB notes there are “knocking noises directly after a load change” and “knocking noises are heard in the drivetrain.”

35. As evidenced by the NHSTA complaints and consumer complaints, the vehicles make a variety of sounds that are indicative of the defect manifesting in the Class Vehicles that cause the judder, jerk, and transmission failures which have resulted in a variety of safety issues that NHSTA had documented thoroughly in 2009 while investigating the 2009 A3s and affected Volkswagen models with the identical transmissions.

36. Some drivers refer to the noise as “clanking,” “banging,” and/or “clunking.”

37. Upon information and belief, Audi was aware, or should have been aware, of the defect

34 11 06 2027295/1 September 9, 2011.

#### APPLICABLE MODELS AND YEARS

Model(s)	Year	VIN Range	Vehicle-Specific Equipment
S4	2010 - 2012	All	S-Tronic Transmission
S5 Cabriolet			

#### CONDITION

Clacking or knocking noises directly after a load change:

- Overrun to acceleration.
- OR-
- Acceleration to overrun.

These noises differ depending on driving situation or temperature.

#### TECHNICAL BACKGROUND

Knocking noises are heard in the drivetrain.

#### PRODUCTION SOLUTION

Not applicable.

#### SERVICE

Such noises cannot be avoided and are normal.

It may be possible to reduce the noise by releasing tension on the drive train mountings.

1. Support engine in place using **10-222 A**.
2. Remove belly pan, front wheels, and front fender liners.
3. Remove and replace front motor mount through bolts right and left (Figure 1 and 2), but leave loose until step 5.



1 present in the Class Vehicles before the first Class Vehicle was ever sold.

2 38. The defect causes the transmission to malfunction in, at a minimum, the following ways:  
3 the Class Vehicles hesitate from a stop before acceleration, surge in acceleration, hard downshift at low  
4 speeds, and suddenly shake and jerk violently (commonly known as “juddering” or “shuddering”)  
5 (collectively, “transmission failures”).

6 39. Drivers’ reports confirm that the transmission failures occur at especially critical points,  
7 including but not limited to: when a driver is trying to accelerate from a stop, often with other cars  
8 behind the Class Vehicles; at low speeds when drivers intend to merge with traffic and shift gears to  
9 merge onto a highway; when a driver is accelerating to gain speed to drive uphill; when a driver is  
10 shifting gears at low speeds; and when a driver is attempting to decelerate the Class Vehicle.

11 40. Audi has issued several TSBs that seek to address the transmission issues in the Class  
12 Vehicles, including TSB Nos. 2028715 and 2030477/6.

13 41. Despite Audi’s knowledge of a problem that was widespread and serious enough to send  
14 dealers this many TSBs related to the defect, Audi did not inform Plaintiff or Class Members of the  
15 defect.

16 42. Despite its knowledge of the defect, Audi continued to sell Class Vehicles with the  
17 defectively designed and/or manufactured transmissions.

18 43. Despite its knowledge of the defect, Audi did nothing to recall the Class Vehicles to  
19 address this defect.

20 44. The above listed and described TSBs evidence Audi’s repeated inability to determine (a)  
21 the cause of the defect and (b) a resolution for the defect.

22 45. Further, Audi continued to sell new and Certified Pre-Owned Class Vehicles even while  
23 issuing TSBs for the defect, advertising and warranting them as if they were defect-free.

24 46. The Class Vehicles were defective from the time they were released by the manufacturer  
25 into the stream of commerce.

26 47. Audi failed to disclose this material defect to Plaintiff, Class Members, consumers, and  
27 the general public.

28 48. Hundreds, if not thousands, of purchasers and lessees of the Class Vehicles have

1 experienced the transmission defect.

2 49. Complaints filed by consumers with the NHTSA and posted on the Internet demonstrate  
3 that the defect is widespread.

4 50. The consumer complaints, as well as Audi's repeated TSBs, indicate that Audi was fully  
5 aware of the widespread and common defect. *See infra*.

6 51. Audi continued to manufacture, market, and distribute new Class Vehicles into model  
7 year 2016 despite its failure to remedy the known transmission defect.

8 **Consumers Have Extensively Reported the Defect to Audi.**

9 52. NHTSA provides a system for motor vehicle owners to report complaints relating to  
10 defects in vehicles manufactured or imported in the United States, including defects relating to  
11 transmission malfunctions.

12 53. The defect complaints are entered into NHTSA's consumer complaint automated  
13 database, which manufacturers can—and do—access.

14 54. NHTSA also provides these consumer complaints to the vehicle's manufacturer,  
15 including Audi.

16 55. Like other manufacturers, Audi reviews NHTSA consumer complaints.

17 56. Given that the vast majority of vehicle owners are not aware of NHTSA and/or its  
18 reporting system, complaints received by NHTSA are a small minority of the overall number of  
19 complaints made to Audi, which also received complaints directly and/or through their authorized  
20 dealerships.

21 57. Since *at least* February 2012, Audi has received complaints of transmission defects and  
22 safety concerns related to the Class Vehicles through NHTSA, Audi dealerships, and directly from  
23 owners of Class Vehicles.

24 58. Upon information and belief, consumer complaints have been made directly to Audi  
25 through its customer service department—information that is in the sole possession and control of Audi  
26 but can be inferred by the repeated efforts to provide dealers guidance to repair the transmissions.

27 59. Despite Audi's knowledge of the transmission defect in the Class Vehicles and its safety  
28 implications for drivers who cannot confidently change gears or accelerate without their Class Vehicles

1 juddering, Audi continues to conceal this knowledge. Audi has failed and continues to fail to disclose  
2 that its Class Vehicles' transmissions are defective and dangerous.

3 60. Consumers continue to operate Class Vehicles and experience dangerous manifestations  
4 of the defective transmission, putting drivers of Class Vehicles at increased risk for crashes.

5 61. Many consumers have submitted individual NHTSA complaints regarding Class  
6 Vehicles experiencing the transmission defect described in Audi's TSBs. The number and content of  
7 NHTSA consumer complaints of "juddering," "down shifting," "hesitation," "surge," and loss of  
8 acceleration highlight the Class Vehicles' transmission defect.

9 62. Audi received and was aware of these consumer complaints.

10 63. Some of the complaints filed with NHTSA about the transmission defect are included  
11 below:

- 12 • NHTSA Complaint on October 23, 2012 for 2010 Audi S4: "THIS ISSUE CONCERNS  
13 MY AUDI 2011 S4, A CAR THAT I TOOK DELIVERY ON IN APRIL, 2011. I HAVE  
14 HAD NUMEROUS PROBLEMS WITH THE CAR SINCE THE DELIVERY,  
15 HOWEVER, IT IS A SAFETY CONCERN THAT HAS CAUSED THIS SPECIFIC  
16 FILING. THE PROBLEM SEEMS TO BE WITH THE DSG TRANSMISSION. ON  
17 OCCASION, THE CAR WILL STRUGGLE AND "BUCK" IN LOW GEARS AT A  
18 VERY SLOW SPEED (OR FROM A COMPLETE STOP) UPON ACCELERATION.  
19 THIS DOES NOT HAPPEN OFTEN BUT IT HAS HAPPENED SEVERAL TIMES  
20 SINCE TAKING DELIVERY. I HAVE TRIED ADDRESSING THE PROBLEM WITH  
21 AUDI CORAL SPRINGS IN THE PAST BUT BECAUSE I CANNOT DUPLICATE  
22 THE PROBLEM, THEY ARE UNABLE TO HELP. CONSEQUENTLY, I HAVE NOT  
23 BEEN ABLE TO ALWAYS DRIVE THE CAR IN THE MANNER THAT I WOULD  
24 LIKE TO. HOWEVER, ON OCTOBER 9, 2012, THE PROBLEM HAPPENED AGAIN,  
25 ONLY THIS TIME, IT OCCURRED WHILE ATTEMPTING TO MERGE INTO  
26 TRAFFIC. I WAS IN A MERGE LANE, TRAVELING APPROX 3-5 MPH AND WHEN  
27 THE OPPORTUNITY AROSE, I ACCELERATED INTO THE TRAFFIC. AT THAT  
28 PRECISE MOMENT, THE CAR BUCKED VIOLENTLY (AS IT HAS DONE IN THE  
PAST) AND I HAD TO LIFT OFF THE THROTTLE TO CORRECT THE ISSUE. LET  
ME EXPRESS THAT I IN NO WAY AM ATTEMPTING TO CAUSE PROBLEMS FOR  
AUDI. I AM ONLY CONCERNED FOR MY SAFETY. ITS QUITE CONCEIVABLE  
THAT WHEN MY CAR HAS THIS TROUBLE WHILE MERGING INTO TRAFFIC  
THAT I COULD GET HIT FROM BEHIND AS I MUST IMMEDIATELY LIFT OFF  
THE ACCELERATOR TO RESOLVE THE ISSUE. \*TR"
- NHTSA Complaint on May 13, 2017 for 2010 Audi S4: "MY S4 THREW THE  
"GEARBOX MALFUNCTION, REVERSE DISABLED" AS WELL AS A TPMS  
ERROR CODE WHILE IN TRAFFIC, AND WENT INTO LIMP MODE AND WOULD  
NOT ALLOW ME TO ACCELERATE. VERY DANGEROUS, AND INCONVENIENT.

LIMPED HOME AT VERY SLOW SPEED WHILE TRANSMISSION CLUNKED AND STRUGGLED TO CHANGE GEARS. THE CODE HAS GONE AWAY SINCE I RESTARTED THE VEHICLE, AND NOW IT LUNGES FORWARD WHEN YOU'RE COMING TO A STOP, WHICH MAKES YOU FEEL LIKE YOU'VE BEEN HIT FROM BEHIND. TAKING OFF FROM A STOP IS BOUNCY AND SUPER JERKY. IF I HESITATE BEFORE ACCELERATING FROM A STOP, IT WILL SOMETIMES GO SMOOTHLY. THE ENGINE RPM'S SURGE WHILE COASTING TO A STOP, OR GOING DOWN HILL ESPECIALLY WITH FOOT OFF THE PEDAL."

- NHTSA Complaint on April 8, 2017 for 2010 Audi S4: "WHEN DRIVING IN REGULAR DRIVE BOX INDICATOR COMES ON. SAYING GEARBOX MALFUNCTION LIMITED FUNCTION. I ONLY HAVE 63125 MILES AND KEEP MY CAR MAINTENANCE."
- NHTSA Complaint on March 9, 2017 for 2010 Audi S4: "ONE WEEK AFTER PURCHASING CAR, CAR EXHIBITING SYMPTOMS OF MECHATRONICS UNIT FAILURE (BANG/JERK WHEN STOPPING, RPM JUMPY IN 1/2ND GEAR, REVERSE IS JUMPY)."
- NHTSA Complaint on January 4, 2017 for 2010 Audi S4: "TPMS & GEARBOX MALFUNCTION CAR WILL NOT DRIVE IN REVERSE AND JERK IN FORWARD GEARS WHILE ALSO INCREASING REVS ALL BY ITSELF. MAJOR SAFETY HAZARD AS THE CAR WAS IN MOTION ON A MAJOR BUSY ROAD!"
- NHTSA Complaint on November 30, 2016 for 2010 Audi S4: "MY S4 LUNGES AT STOPS, OR IT FEELS LIKE I'VE BEEN HIT FROM BEHIND. TAKEOFF FROM A STOP IS BOUNCY, BOUNCY REVERSING, ESPECIALLY UPHILL. IF I TAKE MY FOOT OFF THE BREAKS AND HESITATE BEFORE ACCELERATING, SOMETIMES IT'S SMOOTH. THE TAC BOUNCES WHILE COASTING TO A STOP, OR GOING DOWN HILL WITH FOOT OFF THE PEDAL. THESE ISSUES HAVE BEEN INTERMITTENT THE LAST SEVERAL YEARS, BUT ARE NOW MORE PROFOUND. I'VE TAKEN THE CAR TO MY LOCAL DEALER SEVERAL TIMES TO NO AVAIL. VERY FRUSTRATING TO PAY 50K FOR A CAR THAT DRIVES LIKE THIS, WHILE AUDI PRETENDS IT'S NOT A PROBLEM. LOTS OF THESE ISSUES IN VARIOUS FORUMS."
- NHTSA Complaint on August 11, 2016 for 2010 Audi S4: "WARNING: GEARBOX MALFUNCTION- YOU CAN CONTINUE DRIVING" APPEARS AFTER ABOUT 15 MINUTES OF DRIVING. THE CAR DOES NOT MALFUNCTION, CHANGES GEARS WITHOUT PROBLEMS, AND WARNING REMAINS ON SCREEN. CAR HAS 58K MILES AND HAS BEEN WELL MAINTAINED. TOOK TO AUDI DEALERSHIP AND ADVISED MODULE G676 IS BAD. COST TO REPAIR: \$5334.39. THERE IS A TSB FOR THIS WARNING ON THIS ISSUE FOR SEVERAL YEARS OF AUDIS. AUDI WILL NOT COVER ANY OF THE COSTS TO REPAIR ALTHOUGH THEY REALIZE THIS IS A COMMON FAILURE AMONG THIS

VEHICLE. THIS IS A MANUFACTURER ISSUE!! WHY ARE THEY NOT BEING HELD ACCOUNTABLE? HARD CLUNK WHEN SELECTING GEARS FROM P TO R TO D. WHEN COMING TO A STOP IN TRAFFIC THE CAR LURCHES FORWARD LIKE BEING REAR ENDED. SOMETIMES AFTER A COMPLETE STOP HAS BEEN MADE THE CAR WILL SURGE FORWARD A CONSIDERABLE AMOUNT WHICH MAY POSSIBLY CAUSE ME TO HIT THE CAR IN FRONT OF ME."

- NHTSA Complaint on June 20, 2016 for 2010 Audi S4: "MECHATRONIC FAILURE. CAR WAS FULLY SERVICED AND MAINTAINED BY AUDI HOWEVER AUDI WILL NOT PAY FOR COST OF REPLACEMENT. COST OF REPLACEMENT IS \$3,000 USD. CAR DISPLAYED GEARBOX MALFUNCTION LIMITED DRIVING ABILITY, PARKING BRAKE FAILURE THEN LOST ALL DRIVE AND CAR WAS STUCK IN N. I WAS UNABLE TO SHIFT OUT OF GEAR AND PUT THE CAR IN PARK THIS IS A SAFETY ISSUE."
- NHTSA Complaint on September 30, 2015 for 2010 Audi S4: "THE S-TRONIC/DSG TRANSMISSION IS HAVING ISSUES DOWNSHIFTING. IT WILL REV UP HIGH WHEN COMING TO A STOP AS WELL. THERE IS ALSO A HARSH CLUNK WHEN SHIFTING FROM NEUTRAL-DRIVE-PARK. AUDI RECOMMENDED REPLACING THE MECHATRONICS UNIT IN THE TRANSMISSION. THE MECHATRONICS CIRCUIT BOARD HAS ALREADY BEEN REPLACED AT OWNERS COST AND NOW THEY WANT ME TO REPLACE THE ENTIRE MECHATRONIC UNIT AT MY COST (\$3800+). THIS IS A COMMON ISSUE WITH THESE CARS AND THERE NEEDS TO BE A RECALL FOR THESE TRANSMISSIONS. IT IS KNOWN THAT THESE TRANSMISSIONS ARE FAULTY AND AUDI DOES NOT WANT TO TAKE RESPONSIBILITY FOR THESE ISSUES."
- NHTSA Complaint on September 30, 2015 for 2010 Audi S4: "AT APPROX 55K MILES, MECHATRONICS UNIT FAILED. EXTREMELY ROUGH SHIFTS FROM 1-2 AND 2-1, LURCHING FORWARD AFTER COMING TO COMPLETE STOP. DEALERSHIP REPLACED MECHARONICS UNIT. AT 74K MILES ENTIRE DSG GEARBOX FAILED, WHILE ON HIGHWAY WITH VIRTUALLY NO POWER OR ABILITY TO ACCELERATE. LUCKILY TRAFFIC WAS AT NEAR STOP DUE TO RUSH HOUR, WAS ABLE TO MAKE IT TO NEXT OFFRAMP IN WHAT THEY CALL 'LIMP MODE'. DEALERSHIP IS REPLACING ENTIRE TRANSMISSION."
- NHTSA Complaint on April 12, 2015 for 2010 Audi S4: "I HAVE JUST RECENTLY PURCHASED THIS CAR FROM AN OLDER MAN WHO WAS VERY KIND TO THE CAR. I HAVE HAD THIS VEHICLE FOR THE WHOLE TWO MONTHS WHEN I ENTERED MY GARAGE TO LEAVE FOR THE DAY I RECEIVED A"GEAR BOX MALFUNCTION, YOU MAY CONTINUE DRIVING: LIMITED FUNCTIONALITY CODE" I HAVE DONE MY HOURS OF RESEARCH AND HAVE FOUND OUT THIS IS A SIMPLY A PROBLEM LOT OF PEOPLE ARE HAVING. THIS IS SOMETHING AUDI IS SELLING ON THEIR CARS KNOWING THESE HAVE ISSUES!!!! I WANT TO TAKE FURTHER ACTION, AUDI SHOULD STEP UP AND REPAIR ALL THE BROKEN UNITS THEY HAVE BEEN SELLING. THESE UNITS HAVE GIVEN 95

PERCENT OF AUDI OWNERS PROBLEMS. REALLY MAKES ME FEEL LIKE I'LL NEVER BUY ANOTHER. \*TR”

- NHTSA Complaint on April 5, 2015 for 2010 Audi S4: “I WAS DRIVING AND CAME UP TO STOP LIGHT. CAR FLASHED UP WARNING SAYING GEARBOX MALFUNCTION LIMITED FUNCTIONALITY. CAR WOULD NOT CHANGE UP OR DOWN SMOOTHLY OR QUICKLY. LOSS OF POWER ON EVERY SHIFT FOR OVER A SECOND. HAD AUDI OF STEVENS CREEK CHANGE DSG FLUID A COUPLE OF WEEK PRIOR. \*TR”
- NHTSA Complaint on April 4, 2015 for 2010 Audi S4: “THE DSG TRANSMISSION IS VERY JERKY IN 1-2 GEARS IT OPERATES AS THOUGH THE CLUTCH IS NOT ENGAGING/DISENGAGING PROPERLY. WHEN TRAVELING AT HIGHWAY SPEEDS WITH THE CRUISE CONTROL ENGAGED THE ENGINE RPMS WANDER AS THOUGH THE CLUTCH IS ENGAGING AND DISENGAGING. STARTING FROM A DEADSTOP OR DRIVING AT LOW SPEEDS ARE VERY UNCOMFORTABLE DUE TO THE JERKY-NESS. \*TR”
- NHTSA Complaint on August 3, 2014 for 2010 Audi S4: “WHILE DRIVING IN RUSH HOUR BUMPER TO BUMPER TRAFFIC THE 2010 AUDI S4 WITH THE DSG S-TRONIC TRANSMISSION BECOMES VERY JERKY, CAUSING IT TO SURGE WHEN STARTING AND STOPPING OR DRIVING AT LOW SPEEDS. AS A RESULT IT IS HARD TO CONTROL, ESPECIALLY IN TIGHT TRAFFIC, PARKING AREAS, OR AROUND PEDESTRIANS. ADDITIONALLY, WHEN COMING TO A COMPLETE STOP WHEN IN THIS CONDITION THE SHIFT FROM 2ND GEAR TO FIRST HAPPEN IN SUCH A WAY THE IT GIVE THE FEELING THAT THE CAR HAS BEEN REAR ENDED. \*TR”
- NHTSA Complaint on October 5, 2014 for 2010 Audi S4: “I WAS DRIVING ON A NORMAL STRETCH OF FLAT HIGHWAY APPROXIMATELY 65MPH AND THE DASH LIT UP LIKE A CHRISTMAS TREE OUT OF THE BLUE. CAR INDICATED REVERSE GEAR NOT AVAILABLE, TRANSMISSION WARNING LIGHTS, AND TIRE PRESSURE MONITOR SYSTEM PROBLEM ALL AT THE SAME TIME. CAR WENT IN TO A "LIMP MODE" AND IT ONLY SHIFTED IN EVEN NUMBER GEARS, AND FELT LIKE THE CAR WAS DANGEROUSLY UNSTABLE DUE TO ERRATIC MISSED SHIFTING. THE CAR HAD RECENTLY BEEN IN PRIOR FOR A SERVICE CHECK AND HAD NO CODES OR CHECK ENGINE LIGHT PROBLEMS AT ALL! AFTER A LITTLE RESEARCH IT IS A WELL DOCUMENTED PROBLEM THAT THE MECHATRONICS FAILS ON THIS VEHICLE RATHER OFTEN. THAT WAS THE PROBLEM. COST OF REPAIR WAS NEAR 3300\$. I WAS APPROXIMATELY 4K MILES OUT OF WARRANTY WHEN THIS OCCURRED, AFTER NUMEROUS PERSISTENT EXCHANGES WITH AUDI OF AMERICA THEY FINALLY DECIDED TO COVER THE FAILURE AS I WAS CONSIDERING SEEKING LEGAL ACTION. ( I HAD THE PART IN HAND AND COULD SUBMIT IT TO FAILURE ANALYSIS ENGINEERING FOR CAUSE). ON AN POLL ON A POPULAR AUDI WEBSITE, APPROXIMATELY 15% OF THESE MECHATRONICS



HAVE FAILED. THE DESIGN ISSUE IS A CIRCUIT CARD EMBEDDED IN HOT TRANSMISSION FLUID THAT AFFECTS THE HYDRAULIC CONTROL OF THE TRANSMISSION. IF THE TRANSMISSION IS DAMAGED IT CAN BE OVER A +10K\$ REPAIR. \*TR”

- NHTSA Complaint on August 2, 2014 for 2010 Audi S4: “PULLED OUT OF PARKING LOT AND RECEIVED A GEARBOX MALFUNCTION WARNING ALONG WITH A TPMS MALFUNCTION. WARNING ON DASH INDICATED THAT I COULD CONTINUE DRIVING. I DROVE VEHICLE FOR APPROXIMATELY ANOTHER MILE AND WHILE GOING THRU A ROUNDABOUT, THE CAR SHUT OFF. I WAS ABLE TO PULL OVER TO THE SIDE OF THE ROAD AND GET THE VEHICLE STARTED AGAIN. I CONTINUED THE REST OF THE WAY HOME FOR ABOUT 2 MORE MILES. THE MECHATRONIC UNIT WAS DETERMINED TO BE FAULTY AND WAS REPLACED. \*TR”
- NHTSA Complaint on January 29, 2014 for 2010 Audi S4: “MECHATRONICS UNIT FAILURE IN DSG TRANSMISSION. HARD SHIFTS FROM 1ST TO 2ND AND 2ND TO 1ST WHILE STOPPING. (VEHICLE MAKES LOUD DRIVETRAIN BANG NOISE, SHAKES AND STOPS ABRUPTLY WHEN SLOWING DOWN AND TRYING TO COME TO A STOP, ALMOST AS IF YOU SLOWED DOWN TO 5-10MPH AND THEN SLAMMED ON THE BRAKES.) \*TR”
- NHTSA Complaint on December 17, 2013 for 2010 Audi S4: “MECHATRONICS UNIT FAILED IN THE VEHICLE AUTOMATIC TRANSMISSION. TRANSMISSION FAILURE MESSAGE LISTED ON CAR DASHBOARD. CAR WOULD NOT SHIFT OUT OF 1ST GEAR AND THERE WAS NO REVERSE GEAR. CAR HAD TO BE TOWED TO THE DEALERSHIP FOR REPAIR. MULTIPLE WEB FORUM POSTS STATED THE AUDI B8 MODELS SUFFERED THIS FAILURE FREQUENTLY. ”
- NHTSA Complaint on November 12, 2013 for 2010 Audi S4: “THE TRANSMISSION BEGINS TO JERK AND SLAM CAUSING THE VEHICLE TO ACCELERATE JUST PRIOR TO STOPPING IN STOP/GO TRAFFIC. NOTICED THAT THIS HAPPENS ONLY AFTER DRIVING IN STOP/GO SITUATIONS AND USUALLY AROUND 5MPH. ALSO CLANKS/JERKS WHILE IN REVERSE. DEALER KEEPS SAYING THEY CANNOT REPRODUCE”
- NHTSA Complaint on April 10, 2017 for 2011 Audi S4: “GEARBOX MALFUNCTION WARNING AND THE TPMS MALFUNCTION CAME ON AT SAME TIME. CONTINUED TO DRIVE IN LIMP MODE FOR ABOUT 1 MILE AND THE CAR SHUT COMPLETELY OFF. START THE CAR BACK UP AND STILL SHOWING WARNINGS. GET IT HOME AND ATTEMPT TO PUT INTO REVERSE AND THE CAR WON'T ENGAGE. I JUST HAPPENED TO START THE CAR AGAIN AND ALL LIGHTS WERE GONE. CAR WENT INTO ALL GEARS, DROVE FINE, AND GOT IT TO THE DEALER. TWO HOURS LATER I GET IN TO GO TO THE STORE AND AS SOON AS I SHIFT INTO D, THE TPMS AND GEARBOX MALFUNCTION LIGHT



FLASH UP TELLING ME I HAVE NO REVERSE AND I'M STILL GOOD TO DRIVE. SO I DECIDE TO DRIVE DOWN THE STREET AND SEE WHAT THE ISSUE IS. AS SOON AS THE CAR WENT TO SHIFT FROM 1ST TO 2ND IT SKIPPED, REVVED IN NEUTRAL FOR ABOUT 2 SECONDS THEN DROPPED HARD INTO 3RD GEAR. THE NEXT MORNING I WENT TO DRIVE THE CAR AND DROVE AROUND THE NEIGHBORHOOD WITH NO PROBLEM - NO ERROR MESSAGE, NO FAULTY SHIFTING, NO JERKING OR ANYTHING. SO I DECIDED TO RUN TO THE STORE ABOUT 4 MILES AWAY AND SEE HOW IT HELP UP. I MADE IT TO THE STORE AND HALFWAY BACK BEFORE BOOM - IT HAPPENED AGAIN. CAR WILL START IN 1ST GEAR FINE, WENT SHIFTING INTO 2ND IT SLIPS INTO NEUTRAL FOR ABOUT 2-3SEC THEN DROPS ABRUPTLY INTO 3RD, WHEN YOU HAVE ENOUGH SPEED IT DOES THE SAME THING TRYING TO SHIFT INTO 4TH - SKIPS AND DROPS INTO 5TH, SAME THING INTO 6TH - SLIPS OUT OF 5TH AND DROPS HARD INTO 7TH. SLOWING DOWN WAS NOT A HUGE PROBLEM AS LONG AS YOU HAVE PLENTY OF ROOM TO TAKE IT EASY. IF YOU SLOWED TO FAST THE GEARS WOULDN'T KEEP UP AND IT WOULD JERK VERY HARD. THIS IS A SERIOUS MATTER SINCE IT IS A SYSTEM FACTORY FAILURE WITH THE DSG UNIT SIMPLE AS THAT. REASON WHY I AM CONTACTING THIS AGENCY AS THE CAR SHUT OFF ON ME WHILE YOU WERE DRIVING IT IN THE MIDDLE OF THE HIGHWAY AND I COULD HAVE BEEN HIT/KILLED THE FIRST TIME IT HAPPENED."

- NHTSA Complaint on December 29, 2016 for 2011 Audi S4: "DEC 5 2016, WHILE PULLING OUT OF MY DRIVEWAY IN ROUTE TO A SCHEDULED SERVICE APPOINTMENT AT AUDI OF ASHEVILLE, MY 2011 AUDI S4 LURCHED AND SEVERAL WARNINGS CAME UP INCLUDING 'DSG FAILURE, NO REVERSE, TPMS WARNING', FOLLOWED BY 'YOU MAY CONTINUE TO DRIVE'. WITHIN 5 MILES AND AT A SPEED OF APPROX 35 MPH THE VEHICLE SUFFERED A CATASTROPHIC LOSS OF DRIVE AND CAME TO A STOP IN A TWO LANE ROAD, THE ENGINE WAS STILL RUNNING, BUT NO CONNECTION WITH THE REST OF THE DRIVE-TRAIN WAS EVIDENT. I BELIEVE THE "MECHATRONICS" CONTROL UNIT FAILED CAUSING TOTAL LOSS OF DRIVE AND UNCONTROLLED, UNSYNCD GEAR CHANGES. I WAS APPROX 5 MILES FROM BEING ON AN INTERSTATE WITH A 6% GRADE. VEHICLE IS ONE OWNER, ORDERED AND SERVICED EXCLUSIVELY BY AUDI, 70000 MILES, NOT ABUSED. REQUIRES COMPLETE TRANSMISSION REPLACEMENT, WITH THE NOTED EXCEPTION OF THE TRANSMISSION THERE WAS NOTHING MECHANICALLY WRONG WITH THE REST OF THE VEHICLE."
- NHTSA Complaint on August 22, 2016 for 2011 Audi S4: "AT ABOUT 49K MILES THE CAR WOULD SOMETIMES LURCH BACKWARDS WHEN IN REVERSE OR GOING FROM REVERSE TO PARK. TOOK INTO MECHANIC. NO DIAGNOSTIC CODES SHOWED UP. AROUND 60K MILES THE CAR OVERHEATED. AUDI STATED IT NEEDED A NEW THERMOSTAT WHICH WAS AROUND \$1000. DROVE THE CAR ACROSS COUNTRY FROM CA TO CO. AROUND 62K MILES CAR WENT INTO LIMP MODE AND WOULD NOT GET OUT OF 1ST OR 2ND

GEAR. "GEARBOX MALFUNCTION" WARNING CAME ON. STATED NOT TO GO INTO REVERSE. DROVE HOME SLOWLY. NEXT MORNING ALL WARNING LIGHTS WERE OFF. TOOK TO MECHANIC. NO PROBLEMS COULD BE FOUND. MAY 2016 AT 69K MILES CAR WENT INTO LIMP MODE AGAIN. COULDN'T GET RPMS UP. RESET CODES USING DIAGNOSTIC TOOL. DROVE FROM UTAH TO CO. CAR WENT INTO LIMP MODE PROBABLY 40 TIMES ON I-70. CAR WOULD LURCH FORWARD. MADE IT TO DEALER (PRESTIGE IN LAKEWOOD, CO). MECHATRONICS FOUND TO BE FAULTY AND CAR IN NEED OF ENTIRELY NEW TRANSMISSION. COST \$12,000. DEALERSHIP "PAID" \$8000. I PAID \$4000. THIS SEEMS TO BE A COMMON PROBLEM WITH THIS MAKE/MODEL/YEAR."

- NHTSA Complaint on April 19, 2016 for 2011 Audi S4: "DSG MECHATRONIC FAILURE. WAS REPLACED UNDER CPO WARRANTY. HOWEVER PROBLEM PERSISTS. WHILE DRIVING CAR GOES INTO NEUTRAL WITH TPMS + GEARBOX MALFUNCTION. THIS IS A KNOWN PROBLEM WITH AUDI S4 2010 AND 2011."
- NHTSA Complaint on February 3, 2016 for 2011 Audi S4: "THIS VEHICLE SUFFERS FROM A FAULTY MECHATRONICS UNIT, CAUSING THE CAR TO MIS-SHIFT AND SURGE WHILE DRIVING, OR FAIL TO MOVE FORWARD WHEN STOPPED IN TRAFFIC IN "D" DRIVE, DUE TO PARKING BRAKE DRIVE-SELECT MALFUNCTIONS. IN THESE CASES THE CAR MUST BE TURNED OFF, IN TRAFFIC IN ORDER TO MOVE FORWARD AGAIN. THIS TECHNIQUE HAS WORKED SO FAR BUT I AM AFRAID THIS WILL NOT WORK EVENTUALLY, AND BECOME A SAFETY ISSUE ON THE ROADWAY."
- NHTSA Complaint on September 2015 for 2011 Audi S4: "VEHICLE WOULD EXHIBIT STRANGE SHIFTING BEHAVIOR IN LOW GEARS. WHEN UPSHIFTING OR DOWNSHIFTING FROM 1-2-3 AND VICE VERSA THE TRANSMISSION WOULD SOMETIMES HESITATE OR SHIFT INAPPROPRIATELY. AUDI DEALERSHIP UPDATED SOFTWARE AND CHECKED THE PROBLEM NUMEROUS TIMES. THEY COULD NOT FIND ANY PROBLEMS NOT ANY ERROR CODES. PROBLEM WOULD COME AND GO USUALLY WHEN IT WAS HOT OUTSIDE. A LITTLE OVER A YEAR (SEPT 2015) CAR HAS AGAIN BEEN ODDLY SHIFTING IN LOW GEARS AND EVEN REVVING TO HIGH RPMS BEFORE DOWNSHIFTING IN AUTOMATIC MODE. CAR FINALLY THREW AND ERROR CODE SAYING GEARBOX MALFUNCTION AND CAR WENT INTO LIMP MODE. THE TRANSMISSION COULD NOT FIND THE RIGHT GEARS TO SHIFT. CAR HAS BEEN EXHIBITING SYMPTOMS OF MECHATRONIC UNIT FAILURE FOR OVER A YEAR NOW."
- NHTSA Complaint on September 22, 2015 for 2011 Audi S4: "AFTER TURNING MY CAR ON A GEARBOX MALFUNCTION WARNING APPEARED BUT SAID I COULD CONTINUE DRIVING. AFTER DRIVING THE MESSAGE AND SERVICE LIGHT EVENTUALLY WENT OFF WITH EVERYTHING GOING BACK TO NORMAL. THE CAR APPEARS TO HAVE A VERY COMMON MECHATRONIC

UNIT ISSUE THAT IS PART OF THE FAULTY DSG THAT AUDI HAS PUT IN THE B8 S4 MODEL.”

- NHTSA Complaint on September 16, 2015 for 2011 Audi S4: “ROUGH/CLUNKING SHIFTING IN STOP AND GO TRAFFIC. CAR WILL LURCH FORWARD, OR LACK POWER WHEN ACCELERATING”
- NHTSA Complaint on January 7, 2015 for 2011 Audi S4: “I WAS ACCELERATING, AFTER LEAVING A RESTAURANT, INTO TRAFFIC. I RECEIVED THE "DSG MALFUNCTION LIGHT" AND SUDDENLY AT ABOUT 20MPH MY LURCHED FORWARD AND FAILED TO RESPOND TO THE THROTTLE AND SHUT OFF IN TRAFFIC. CAR RESTARTED AFTER ABOUT 30 SECONDS BUT DEFINITELY NOT SOMETHING THAT SHOULD GO WITHOUT NOTICE. IF I WAS ON THE INTERSTATE AND THROTTLE WENT OUT SITUATION COULD HAVE BEEN MUCH WORSE. \*TR”
- NHTSA Complaint on January 6, 2015 for 2011 Audi S4: “I WAS CRUISING AT APPROX. 55MPH ON MY WAY TO WORK. I HAD NO SYMPTOMS OF ANYTHING PRIOR TO THE TRANSMISSION FAILURE. SUDDENLY THE CAR STARTED VIBRATING AND DECELERATING AS IF I HAD A FLAT TIRE. I MADE AN EMERGENCY MERGE INTO THE CENTER MEDIAN AND WAS LUCKILY NOBODY REAR ENDED ME. AFTER INSPECTION OF MY TIRES WHICH WERE OK I GOT BACK IN CAR. D OR R WOULD NOT WORK. THE CAR WOULD NOT MOVE.”
- NHTSA Complaint on December 28, 2014 for 2011 Audi S4: “TRANSMISSION SHIFTS CLUNK WHEN COMING TO A STOP FROM 3, 2, TO 1, AND SHIFTS NOISILY AND ABRUPTLY PARTICULARLY IN STOP AND GO TRAFFIC, OR IN EXTREME TEMPERATURES IE MIDDLE OF SUMMER ON A HOT DAY. \*TR”
- NHTSA Complaint on December 1, 2014 for 2011 Audi S4: “AUDI RECENTLY REPLACED MY 2ND THERMOSTAT (1ST WAS 11/2012 AND THE 2ND WAS 11/24/2014), NOT UNDER WARRANTY, AND RETURNED MY CAR TO ME AFTER HOLDING ONTO MY CAR FOR TWO WEEKS. I WAS TOLD THAT MY VEHICLE CHECKED OUT OKAY VIA A DIAGNOSTIC AND MECHANICS REVIEW. I DROVE MY S4 FOR TWO DAYS AND WHILE DRIVING, I RECEIVED AN INDICATOR WARNING THAT READ, GEARBOX MALFUNCTION REVERSE NOT AVAILABLE, YOU CAN STILL DRIVE. I THEN NOTICED THAT THE CAR BEGAN TO VIOLENTLY BUCK WHEN I ACCELERATED. THE CAR SURGED FORWARD WHILE DRIVING IN TRAFFIC WHICH WAS ALARMING TO BOTH MY 10YR OLD DAUGHTER AND I. OTHER CARS HAD TO DRIVE AROUND US AND ONE VEHICLE ALMOST HIT MY CAR IN THE REAR. I CONTINUED TO DRIVE AT A LIMITED SPEED AND IMMEDIATELY, THE TPMS WARNING INDICATOR LIT UP AND THE CAR LOST SPEED. THE CAR WOULD BARELY MOVE AT 10 MPH AND I LIMPED BACK TO A RELATIVES UNDERGROUND PARKING GARAGE.

1 ONCE I PARKED I COULD NOT GET THE CAR TO REVERSE OUT OF THE  
 2 PARKING SPACE. I CALLED AUDI AND THEY STATED THAT I WOULD HAVE  
 3 TO TOW THE VEHICLE TO THE NEAREST AUDI SERVICE CENTER. THE  
 4 VEHICLE WAS TOWED TO AUDI AND I AM WAITING TO HEAR THE RESULTS  
 5 OF THEIR FINDINGS. I HAVE ALREADY INVESTED OVER \$1,750 IN VEHICLE  
 6 REPAIRS (THERMOSTAT AND REAR BRAKES/ROTORS). I DO NOT WANT TO  
 7 CONTINUE TO INVEST MONEY INTO THIS VEHICLE PIT. AUDI NEEDS TO  
 8 RECALL THESE FAULTY PARTS (THERMOSTAT AND MECHATRONIC) AND  
 9 STAND BEHIND THEIR PRODUCT. I'VE SEEN NUMEROUS COMPLAINTS IN  
 10 FORUMS AND ON THIS SITE REFERENCING THESE SAME ISSUES. \*JS”

- 11 • NHTSA Complaint on August 17, 2014 for 2011 Audi S4: “I CURRENTLY DRIVE A  
 12 2011 AUDI S4 DSG AUTOMATIC VEHICLE. THE CAR BUCKS INTERMITTENTLY  
 13 WHEN GOING FROM STOP TO 1ST-2ND-3RD GEAR OR VICE VERSA. IT  
 14 USUALLY OCCURS IN SLOW TRAFFIC AND WHEN THE CAR/TRANSMISSION  
 15 HAS BEEN ON FOR AWHILE. THE CAR WAS TAKEN TO AUDI FOR REPAIR AND  
 16 THE SOFTWARE AND ADAPTABILITY WAS UPDATED. THIS HELPED SMOOTH  
 17 OUT THE SHIFTS BUT THE CAR STILL CONTINUED TO BUCK AT TIMES  
 18 (ESPECIALLY IN DYNAMIC MODE), THE CAR WAS TAKEN BACK TO AUDI  
 19 AGAIN, BUT THE TECHNICIANS DID NOT FIND ANY PROBLEMS WHEN  
 20 DRIVING THE CAR. THE PROBLEM SEEMS TO BE A FAULTY MECHATRONIC  
 21 UNIT WHICH IS KNOWN TO FAIL IN EARLY 2010-2011 S4'S. MULTIPLE PEOPLE  
 22 HAVE GONE THROUGH THE SAME PROBLEMS UNTIL THIS UNIT WAS  
 23 REPLACED. AUDI OF AMERICA HAS BEEN CONTACTED AND DID NOT OFFER  
 24 ANY SOLUTION AT THIS TIME.”
- 25 • NHTSA Complaint on January 7, 2014 for 2011 Audi S4: “WHILE TRAVELING AT  
 26 APPROXIMATELY 40 MPH, A WARNING MESSAGE CAME UP DO THE  
 27 DASHBOARD SAYING "GEARBOX MALFUNCTION, REVERSE GEAR NOT  
 28 AVAILABLE, YOU CAN STILL DRIVE". AT THE SAME TIME, THE TPMS  
 WARNING INDICATOR CAME ON. THE CAR BEGAN TO LOOSE SPEED AND  
 WOULDN'T RESPOND TO THE THROTTLE, AFTER A FEW SECONDS IT WOULD  
 SURGE FORWARD, AND THEN LOOSE SPEED AGAIN. THIS REPEATED A FEW  
 TIMES, UNTIL I CAME TO A STOP AT AN INTERSECTION. AT THE  
 INTERSECTION, I TURNED OFF THE IGNITION AND RESTARTED THE CAR.  
 THE CAR BEHAVED NORMALLY FOR ABOUT 25 MINUTES OF DRIVING. THEN  
 ON THE FREEWAY AT ABOUT 65 MPH THE PROBLEM RECURRED. I WAS ABLE  
 TO LIMP TO THE NEAREST AUDI DEALERSHIP, WHERE THE CAR IS NOW  
 BEING EVALUATED. I'M VERY CONCERNED ABOUT THIS ISSUE, BECAUSE AT  
 TIMES I WAS UNABLE TO MAINTAIN THE SAME SPEED AS THE FLOW OF  
 TRAFFIC AND AN ACCIDENT COULD HAVE OCCURRED. \*TR”
- NHTSA Complaint on October 23, 2012 for 2011 Audi S4: “THIS ISSUE CONCERNS  
 MY AUDI 2011 S4, A CAR THAT I TOOK DELIVERY ON IN APRIL, 2011. I HAVE  
 HAD NUMEROUS PROBLEMS WITH THE CAR SINCE THE DELIVERY,  
 HOWEVER, IT IS A SAFETY CONCERN THAT HAS CAUSED THIS SPECIFIC

1 FILING. THE PROBLEM SEEMS TO BE WITH THE DSG TRANSMISSION. ON  
 2 OCCASION, THE CAR WILL STRUGGLE AND "BUCK" IN LOW GEARS AT A  
 3 VERY SLOW SPEED (OR FROM A COMPLETE STOP) UPON ACCELERATION.  
 4 THIS DOES NOT HAPPEN OFTEN BUT IT HAS HAPPENED SEVERAL TIMES  
 5 SINCE TAKING DELIVERY. I HAVE TRIED ADDRESSING THE PROBLEM WITH  
 6 AUDI CORAL SPRINGS IN THE PAST BUT BECAUSE I CANNOT DUPLICATE  
 7 THE PROBLEM, THEY ARE UNABLE TO HELP. CONSEQUENTLY, I HAVE NOT  
 8 BEEN ABLE TO ALWAYS DRIVE THE CAR IN THE MANNER THAT I WOULD  
 9 LIKE TO. HOWEVER, ON OCTOBER 9, 2012, THE PROBLEM HAPPENED AGAIN,  
 10 ONLY THIS TIME, IT OCCURRED WHILE ATTEMPTING TO MERGE INTO  
 11 TRAFFIC. I WAS IN A MERGE LANE, TRAVELING APPROX 3-5 MPH AND WHEN  
 12 THE OPPORTUNITY AROSE, I ACCELERATED INTO THE TRAFFIC. AT THAT  
 13 PRECISE MOMENT, THE CAR BUCKED VIOLENTLY (AS IT HAS DONE IN THE  
 14 PAST) AND I HAD TO LIFT OFF THE THROTTLE TO CORRECT THE ISSUE. LET  
 15 ME EXPRESS THAT I IN NO WAY AM ATTEMPTING TO CAUSE PROBLEMS FOR  
 16 AUDI. I AM ONLY CONCERNED FOR MY SAFETY. ITS QUITE CONCEIVABLE  
 17 THAT WHEN MY CAR HAS THIS TROUBLE WHILE MERGING INTO TRAFFIC  
 18 THAT I COULD GET HIT FROM BEHIND AS I MUST IMMEDIATELY LIFT OFF  
 19 THE ACCELERATOR TO RESOLVE THE ISSUE. \*TR"

- 20 • NHTSA Complaint on July 6, 2017 for 2012 Audi S4: "PREMATURE TRANSMISSION  
 21 MECHATRONIC FAILURE. CAR UNABLE TO REVERSE DURING A 3 POINT  
 22 TURN IN A ROADWAY ACROSS TRAIN TRACKS. SINCE NEW THE CAR HAD A  
 23 CLUNKY TRANSMISSION. IT PROGRESSIVELY GOT WORSE BUT WHEN  
 24 BROUGHT TO THE DEALER IT WAS ALWAYS, "OPERATING WITHIN  
 25 MANUFACTURER'S SPECIFICATIONS" THIS IS THE 2ND AUDI IN A ROW THAT  
 26 HAS BEEN BROUGHT IN MULTIPLE TIMES FOR A PROBLEM THAT THE  
 27 DEALER CLAIMS ISN'T A PROBLEM AND IS "OPERATING IN SPECS OF THE  
 28 MANUFACTURER".
- NHTSA Complaint on June 14, 2017 for 2012 Audi S4: "DSG TRANSMISSION IS  
 SHIFTING VERY ROUGH AND SOMETIMES SLIPS. ALSO LURCHES FORWARD  
 SUDDENLY FROM A STOP CAUSING THE CAR TO LUNGE FORWARD."
- NHTSA Complaint on April 17, 2017 for 2012 Audi S4: "GEARBOX MALFUNCTION  
 (WITH CODES P179E AND P179F) MAY CAUSE THE CAR ENTER ONE OF THE  
 "LIMP MODE" STATES, WHICH CAN CUT ENGINE POWER FROM THE  
 TRANSMISSION. A MESSAGE ON THE DASH MAY SAY "GEARBOX  
 MALFUNCTION" WITH A MESSAGE IF THE CAR IS DRIVEABLE OR MUST BE  
 BROUGHT TO THE REPAIR SHOP. IN SOME CASES, THIS LOSS OF POWER CAN  
 MAKE THINGS DIFFICULT TO PULL OVER SAFELY, AS THE STALL CAN  
 HAPPEN IN AN INTERSECTION, OR IN STOP AND GO TRAFFIC ON THE  
 FREEWAY. AUDI HAS RECOGNIZED THIS PROBLEM IN THE FORM OF A TSB  
 (2032211), HOWEVER, ALL CARS WITH THIS PARTICULAR TRANSMISSION  
 MAY EXPERIENCE A SIMILAR ISSUE, AT ANY TIME, DESPITE FOLLOWING  
 MANUFACTURER SERVICE INTERVALS. THE ISSUE MAY APPEAR TO BE



1 INTERMITTENT AND MAY NOT ENTER FULL LIMP MODE UNTIL MANY MILES  
2 LATER. MY INITIAL ENCOUNTER WITH QUESTIONABLE TRANSMISSION  
3 BEHAVIOR WAS ABOUT 10-15K MILES PRIOR. THIS PARTICULAR CASE  
4 DOCUMENTED WAS THE WORST SCENARIO, BUT SIMILAR SCENARIOS  
(COMING OFF THE FREEWAY AND STALLING SHORTLY AFTER STOPPING, OR  
5 NOT BEING ABLE TO ENGINE BRAKE PROPERLY DUE TO TRANSMISSION  
6 REFUSING TO SHIFT) HAVE ALSO BEEN EXPERIENCED.”

- 7 • NHTSA Complaint on October 24, 2015 for 2012 Audi S4: “DSG TRANSMISSION  
8 STARTED TO SHIFT POORLY. SHIFTS WOULD "SLIP" BETWEEN GEARS AND  
9 SOMETIMES IT WOULD DOWN SHIFT VERY HARD. THIS OCCURED MOSTLY  
10 IN URBAN DRIVING, STOP AND GO.”
- 11 • NHTSA Complaint on September 16, 2015 for 2012 Audi S4: “VERY ABRUPTLY  
12 SHIFTS UP OR DOWN LAUNCHING THE CAR FORWARD WITHOUT WARNING”
- 13 • NHTSA Complaint on March 19, 2015 for 2012 Audi S4: “I OWN A 2012 AUDI S4 WITH  
14 A 7 SPEED DSG TRANSMISSION AND NOTICE HARD SHIFTING IN 1-2 AND 2-1  
15 AND ALSO INTO REVERSE AND DRIVE. I HAVE READ ABOUT THIS BEING A  
16 MECHTRONICS UNIT OR WHOLE REPLACEMENT OF THE TRANSMISSION  
17 CAN BE NEEDED. AFTER BRINGING THE CAR INTO AUDI 4 TIMES WITH  
18 THESE ISSUES THEY FINALLY SAID THAT I NEED TO REPLACE THE TCU AND  
19 UPDATE SOFTWARE ON THE ECU. I ASKED IF THIS WILL FIX THE ISSUE AND  
20 THEY SAID THAT THIS REPAIR WILL BE THE FIRST IN AN ORDER OF PARTS  
21 TO BE REPLACED TO HOPEFULLY FIX THE PROBLEM. NEXT WOULD BE THE  
22 MECHTRONICS OR THE ENTIRE TRANSMISSION. I BOUGHT THE CAR WITH  
23 29K MILES AND 8 MONTHS LEFT ON THE FACTORY WARRANTY FROM A  
24 LOCAL SMALL DEALERSHIP. AFTER PURCHASING THE CAR AND GOING TO  
25 THE DEALER WITH THESE ISSUE 4 TIMES..NOW THEY TELL ME AUDI VOIDED  
26 THE POWER TRAIN WARRANTY OF THE CAR AT 5K MILES DUE TO A ECU  
27 TUNE. SO THEY ARE DENYING THE CLAIM. I TALKED TO A LOCAL TUNER TO  
28 SEE IF THE CAR HAD A TUNE ON THE ECU..THEY SAID NO..I ALSO CALLED  
SEVERAL NATIONWIDE TUNERS TO ASK THEM IF MY CARS VIN WAS ON  
RECORD OF GETTING A TUNE AND THEY SAID NO. SO SINCE IT WAS BEFORE  
I BOUGHT THE CAR I DO NOT KNOW WHAT COMPANY OR FOR HOW LONG IT  
WAS TUNED FOR. THE LOCAL DEALER NEVER TOLD ME WHILE BRINGING  
THE CAR IN FOR TRANSMISSION ISSUES THAT I DID NOT HAVE A POWER  
TRAIN WARRANTY UNTIL A MAJOR COST WAS INVOLVED. HEY KNOW  
THERE ARE PROBLEMS WITH THESE TRANSMISSION HENCE THE UPDATED  
TCU AND SOFTWARE UPDATE TO THE ECU AS WELL AS THE UPDATED  
PART# OF THE MECHTRONICS UNIT THEY WOULD REPLACE IT WITH. THIS  
SHOULD BE SOMETHING AUDI SHOULD COVER UP TO 100K WITH A TUNE  
ECU OR NOT. A ECU TUNE HAS NO CONTROL OVER THE TRANSMISSION TCU  
OR THE PARTS IN THE TRANS.”

- 1 • NHTSA Complaint on March 23, 2016 for 2010 Audi S5: “2010 AUDI S5 S-TRONIC  
2 TRANSMISSION JUMPS AND JERKS WHEN COMING TO A COMPLETE STOP.”
- 3 • NHTSA Complaint on September 18, 2016 for 2010 Audi S5: “WHEN DRIVING IN HOT  
4 WEATHER, ON A BUSY BOULEVARD, COMING TO A RED LIGHT, AS  
5 AUTOMATIC TRANSMISSION SHIFTS DOWN TO FIRST GEAR, CAR LURCHES  
6 FORWARD WITH A STRONG BANG IN THE TRANSMISSION. ALMOST HIT  
7 PEDESTRIANS IN THE CROSSWALK. IF I WAS NOT HEAVY ON THE BRAKE  
8 PEDAL THERE WOULD NO DOUBT HAVE BEEN INJURIES. THIS IS NOT AN  
9 ISOLATED INCIDENT. IT HAS HAPPENED MANY TIMES AND WITHOUT  
10 WARNING. AUDI SERVICE TELLS ME IT IS THE MECHATRONIC UNIT IN THE  
11 TRANSMISSION MALFUNCTIONING WHEN IT GETS HOT. NEEDS TO BE  
12 REPLACED. I HAVE BEEN COMPLAINING ABOUT THIS TO AUDI SERVICE FOR  
13 MORE THAN FOUR YEARS AND IT IS GETTING WORSE. AUDI HAS BEEN  
14 STALLING AND HAS REFUSED TO REPLACE THE MECHATRONIC UNIT  
15 UNDER WARRANTY.”
- 16 • NHTSA Complaint on November 20, 2015 for 2010 Audi S5: “TL\* THE CONTACT  
17 OWNS A 2010 AUDI S5. THE CONTACT STATED THAT THE VEHICLE LUNGED  
18 FORWARD WITHOUT WARNING WHEN THE GEAR ENGAGED. THE DEALER  
19 DIAGNOSED THAT THE MECHATRONICS WAS DEFECTIVE AND NEEDED TO  
20 BE REPLACED. THE VEHICLE WAS REPAIRED; HOWEVER, THE FAILURE  
21 PERSISTED. THE CONTACT MENTIONED THAT THE VEHICLE WENT BACK TO  
22 THE DEALER TWO MORE TIMES AND THE TECHNICIAN DIAGNOSED THAT  
23 THE TRANSMISSION NEEDED TO BE REPLACED. THE MANUFACTURER WAS  
24 NOT MADE AWARE OF THE FAILURE. THE VEHICLE WAS NOT REPAIRED.  
25 THE FAILURE MILEAGE WAS 65,000.”
- 26 • NHTSA Complaint on October 9, 2015 for 2010 Audi S5: “THERE IS A KNOWN  
27 PROBLEM WITH THE AUDI S-TRONIC TRANSMISSION WHERE THE  
28 MECHATRONICS UNIT WHICH CONTROLS THE SHIFTS IS DEFECTIVE. THIS  
WILL RESULT IN THE MECHATRONIC NEEDING TO BE REPLACED TO THE  
TUNE OF 4 THOUSAND DOLLARS OR AT WORST THE TRANSMISSION TO BE  
REPLACED FOR 11 THOUSAND DOLLARS. THE CAR WILL START DOING  
HARD 2 TO FIRST SHIFTS AND ALMOST THROW YOU INTO THE CAR IN FRONT  
OF YOU IF YOU DO NOT PUSH DOWN HARD ON THE BRAKES. THIS HAPPENS  
ON A CITY STREET OR IN HEAVY TRAFFIC ON THE HIGHWAY AND BEGINS  
WHEN THE TRANSMISSION OIL GETS HOT. TECHNICALLY THE VEHICLE CAN  
BE IN MOTION OR STATIONARY AS IT HAPPENS WHEN IT SHIFTS DOWN TO  
FIRST GEAR. THIS TRANSMISSION IS IN THE 2010 AUDI S5 CABRIOLET ONLY  
AS THE COUPE HAS A DIFFERENT DRIVETRAIN. THE AUDI S4 HAS THE  
TRANSMISSION AS WELL AND EXPERIENCES THE SAME ISSUES.”
- NHTSA Complaint on September 16, 2015 for 2010 Audi S5: “AFTER DRIVING IN  
STOP AND GO DRIVING FOR A PERIOD OF TIME THE TRANSMISSION STARTS



TO ACT UP. WHEN COMING TO A COMPLETE STOP THE CAR WILL SHIFT DOWN INTO FIRST GEAR AFTER THE STOP AND CAUSE THE CAR TO LEAP FORWARD. I HAVE ALMOST REAR ENDED SEVERAL CARS AS A RESULT OF THIS. IT IS A WELL KNOWN PROBLEM WITH THE AUDI S-TRONIC TRANSMISSIONS FOUND IN THE AUDI S5 CABRIOLET AND THE AUDI S4 MODELS. THE OIL IN THE MECHATRONICS UNIT HEATS UP AND CAUSES PROBLEMS WITH THE CIRCUITRY WHICH CAUSES THE ISSUE. I HAVE ALREADY HAD IT IN ONCE FOR A "SOFTWARE UPDATE" TO THE TUNE OF 800 DOLLARS WHICH DID NOTHING. NOW IT IS LOOKING LIKE THEY WILL NEED TO REPLACE THE COMPONENT WHICH CAN COST UP TO 11 THOUSAND DOLLARS IF THE TRANSMISSION HAS BEEN DAMAGED."

- NHTSA Complaint on January 18, 2017 on 2011 Audi S5: "UNABLE TO GET PARTS FOR FAULTY MSE TRANSMISSION CURRENTLY IN MY 2011. AUDI UPGRADED BECAUSE OF KNOWN PROBLEMS TO NSY MODEL TRANSMISSION AND EXPECTS OWNER TO PAY EXPENSE. THEY DID NOT AND HAVE NOT MAKE THE CUSTOMER/CONSUMER AWARE OF THIS UNTIL YOU FORCED TO TAKE IT IN FOR SERVICE DUE TO SENSORS AND LIMITED FUNCTIONALITY IN DRIVING CAPABILITIES. VEHICLE HESITATES AND DROPS GEARS WHILE IN MOTION. THIS OCCURRED ON A MAJOR HIGHWAY CREATING A HAZARDOUS EVENT, IN ADDITION THEY WILL ALSO CHARGE YOU FOR A DIAGNOSIS AND BOGUS SERVICE WHILE THEY ARE ALREADY AWARE THAT THE PARTS ARE NOT AVAILABLE FOR THAT TRANSMISSION. UPON RESEARCH I HAVE FOUND THIS IS NOT AN ISOLATED PROBLEM, OR DUE TO DRIVING, MILEAGE, WEAR AND TEAR, PREVIOUS OWNER, LACK OF WARRANTY OR WHATEVER ELSE THEY WANT TO COME UP WITH. \*TR"

Consumer complaints from non-NHTSA websites include, but are not limited to, the following:

- Complaint on February 01, 2012 for a 2010 S4 on Carcomplaints.com: When in traffic in 2nd gear, when I start to accelerate, the car feels like it changes gear automatically and almost feels like it wants to stall before jerking and pulling off. The actual gear does not change though. In peak hour traffic is very annoying and to think this is a high performance car and most expensive and luxurious one I have ever purchased. I expect comfort when driving, but when in slow traffic, the drive is VERY uncomfortable and frustrating. It has been to the same Audi dealer 4 times and the problem is only fixed temporarily and then reverses back to its usual habit. I purchased the car brand new in the 1st week of January and started noticing the problem from about 500km. I thought the engine was just running in so I only reported it officially at 1000km. I have now driven it for 7000 and still the problem cannot be fixed. The technician struggles to replicate the problem but when I drive it all the time, the problem is there. What do I do?<sup>8</sup>
- Complaint on September 9, 2010 for 2010 S4 on Audi World: Hello guys (sorry for my

<sup>8</sup> [https://www.carcomplaints.com/Audi/S5/2011/transmission/transmission\\_jerks.shtml](https://www.carcomplaints.com/Audi/S5/2011/transmission/transmission_jerks.shtml)

1 english, i need your advice with S-TRONIC. I have S5 sportback (with V6T engine with  
 2 2700 miles) and here is my problem (if its problem or not?) : My S-tronic doesnt have any  
 3 problem of that i found on internet, its all smooth on first and second gear, no problems  
 4 overall. But if i hold acceleration pedal down, wait until RPM is on max (7000) and then  
 5 is gearbox upshifting on next gear ... its also with no problem. I get problem when i drop  
 6 foot from acceleration pedal exactly in second when engine reach max RPM and gearbox  
 7 is upshifting - i get strongly jerk. If i drop foot at 6800 or 6900 rpm, or wait second on  
 8 pedal to let gearbox upshift and then i drop foot, its all with no problem and smooth. Is it  
 9 normal, or problem? I really dont know if i should visit service or just let it be . Thank you  
 10 very much for your help, i hope you all understand what i wrote ,-.<sup>9</sup>

- 11 • Complaint on September 29, 2010 for 2010 S4 on Audi World: It's a problem. The DSG  
 12 decides what it's going to do about 2 seconds before it actually does it. I sometimes get a  
 13 nasty shifts because I nail it during the limbo time between when the DSG has decided to  
 14 upshift and when it actually executes the upshift.<sup>10</sup>
- 15 • Complaint on 8/24/2010 on Audi World: to give you guys a little info if you encounter a  
 16 gearbox malfunction notice. First off, my car was built in Oct '09 and has 14K miles on it.  
 17 A couple of days ago I was pulling out of a parking lot and I hear a chime and get a  
 18 "Gearbox malfunction, you can continue driving" notice in my display then it went away.  
 19 It happened again about 4 hours later, but the car still felt normal. I took my car to the dealer  
 20 the next day and found out my transmission was overheating, causing the light. But the  
 21 tech didn't understand why the transmission was overheating. Of course I was asked, do I  
 22 have any mods on the car or was I driving the car very hard up and down mountain roads  
 23 when I got the malfunction. I told them no and they sent the downloaded information to  
 24 Audi. The next day I was told Audi recommended replacing the mechatronic since the car  
 25 is still under warranty. I currently live in Italy and was told it could take 3 weeks to get the  
 26 part in. Needless to say I wont be driving the car much, even though there are no  
 27 driveability issues. Kudos to Audi for wanting to make things right the first time...that  
 28 mechatronic costs 1100 euros. Hopefully the wait wont be so long. I'll keep you guys  
 posted.<sup>11</sup>
- Complaint on November 30, 2011 for a 2011 S4 on Audi World: I have a 2011 S4 with an  
 S-tronic transmission with a design problem. It was verified by my Audi dealer. If you wish  
 to find out if your DSG/S-tronic transmission has the same design defect, check it out as  
 follows: Put your transmission in manual mode. Under wide open throttle, accelerate  
 through first gear and shift out of first gear at 6100 or higher (up to 7000 redline). Stay at  
 wide open throttle in 2nd gear. If your car has the design defect, it will shift out of second  
 gear on its own, between 4000 and 5000 rpm!! Obviously, this is not what Audi intended.

<sup>9</sup> <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/s-tronic-jerking-problem-2791637/page2/>

<sup>10</sup> *Id.*

<sup>11</sup> <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/s-tronic-owners-gearbox-malfunction-2789503/page2/-Just>

I can take the car to redline in any other gear--just not 2nd. The defect is in the mechatronic unit, but replacing it only fixes the problem half the time. If you check this out, please post your finding as a reply to this thread. I've already run across three B8 S4's with this problem.<sup>12</sup>

- Complaint on November 30, 2011 for a 2011 S4 on Audi World: I can't verify as my car is in the body shop. However, I have noticed while in manual mode, I go to shift manually out of first and the car shifts at the same time and I then find myself in 3rd. Very annoying. What is more worrying is that if this is not the designed intent of the DSG why is there no clear fix. It almost makes M mode, dare I say worthless?<sup>13</sup>
- Complaint on December 20, 2011 for a 2011 S4 on Audi World: My car does the same thing in 2nd gear. Very annoying. I've posted about it before. AoA said it was to protect the motor from extreme torque. I say that's bull crap. Please keep us posted on what they do for you. Good luck. And yes it's a \$55k car and it should work properly for that amount of dough.<sup>14</sup>
- Complaint on December 26, 2011 on Audi World: No need for apologies. I had/have a DSG issue and posted it on multiple Audi forums as well trying to get an answer for what I was experiencing.<sup>15</sup>
- Complaint on December 26, 2011 for a 2011 S4 on Audi World: Thanks for your input Northskate4. As I noted in an earlier post, Audi USA has offered me \$2000 towards a new vehicle. Of course, this isn't much of an offset, but, with current manufacturer to dealer rebates of \$2500 for the 2011 S4, combined with other dealer incentives, it's not bad. What I really want is for Audi to simply offer a DSG software reflash to solve this glitch. I'm hopeful that if enough of us Audi B8 S4 owners speak out about this problem in an open forum (and to our customer reps at Audi USA) Audi may be motivated to fix this issue. I doubt if there will ever be a recall, as this isn't a safety issue. But I still believe Audi will help those who have identified the problem to them. There is power in numbers.<sup>16</sup>
- Complaint on December 28, 2011 for a 2012 S4 on Audi World: Agreed...seems more like a software anomaly. My 2012 short shifts 1st and 2nd in manual mode but runs to redline in auto mode. I'm going to try again in a bit without pressing the kickdown button. Might be that manual mode + accelerator to floor incites this behavior.<sup>17</sup>

<sup>12</sup> <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/new-b8-s4-s-tronic-design-defect-2817650/>

<sup>13</sup> <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/new-b8-s4-s-tronic-design-defect-2817650/page10/>

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

- 1 • Complaint on December 28, 2011 on Audi World: Whether in auto or manual mode, I am  
2 not able to shift under WOT. It goes straight to the red line and shifts automatically. I  
3 cannot shift at will at any point, ie early or late. I feel it defeats the purpose of the manual  
4 shift via paddles or shifter. I had an audi mechanic observe this in my car. Despite  
5 acknowledgement regarding my vehicle, his response was that it did not occur in the 2011  
6 he test drove the day after. I contacted Audi regarding this. I think they said it was a safety  
7 feature (reference to kickdown). I still struggle with that and haven't posted anything about  
8 it sense. I apologize if this is off-topic or if already discussed. I did post my issue a long  
9 time ago, however it appeared that few could relate. Has anyone else experienced this? I  
10 will support the group here complaining about the S-tronic if it will resolve my issue.<sup>18</sup>  
11
- 12 • Complaint on December 29, 2011 on Audi World: Exactly we need to keep the pressure  
13 on. DSG is sold as a performance improvement with racing heritage. Right now we have a  
14 hobbled transmission that does not behave as advertised. The Audi company line of does  
15 not hold up. "Safety" overrides Coincidentally I received 2 letters in the mail yesterday  
16 from a law firm over the High Pressure Fuel Pump issue on the BMW N54 engine (I owned  
17 2 335i's). However, if we don't here something soon from Audi the law firm might be  
18 hearing from us.<sup>19</sup>
- 19 • Complaint on January 1, 2012 (maybe for a 2010 S4) on Audi World: None taken. I am  
20 not sure there was as much info at the time I bought. I purchased my car late 2009. I  
21 understand and can appreciate that you are trying to dispell there is a defect. I can also  
22 appreciate, defect or not, those highlighting certain apects of the s-tronic. This is useful for  
23 both owners and prospective buyers. It would have been for me.<sup>20</sup>
- 24 • Complaint on January 7, 2012 for a 2011 S4 on Audi World: Round 1 with the dealer, who  
25 claims they can not get the transmission to up or downshift without hitting the paddle. They  
26 claim they could not even reproduce the kick down button downshift or the upshift at  
27 6500rpm in 1st and 2nd gear I recorded and sent video of both the 6500rpm up and kick  
28 down shift and the early 2-3 shift. This weekend I hope to get video of the "random"  
shifting it does at times. Random in quotes because the more experiments I do the more  
I'm convinced these are reliability and safety nannies built into the software that are buggy  
when presented with stressful or less predictable inputs. They are a little harder to  
reproduce. BTW, these are not new transmissions nor is the desired behavior in  
performance situations any mystery. Sequential and semi-manual gearboxes have been  
around since the early 1900's. F1 first started racing with them in the early 70's. VAG in  
production since the late 60's. VAG was racing with them in the early 80's and offering  
them in production cars in the early 90's. I've personally been racing or doing track days  
with sequential gearboxes since 1989.<sup>21</sup>

---

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

- 1 • Complaint on January 17, 2012 for a 2011 S4 on Audi World: This is true. The dealer wrote  
2 me off. They said they couldn't duplicate the problem. Test drove for 30 min and used a  
3 1/4 tank of my gas. I jumped in the car to take it home and it happened right away. I don't  
4 trust them now.<sup>22</sup>
- 5 • Complaint on January 21, 2012 for a 2011 S4 on Audi World: I cant get the DSG to  
6 misbehave on que, especially when I am at service. But it definitely malfunctions at times  
7 in the lower gears or if I punch it at standstill which is when it happens the most. Vast  
8 majority of time it runs ok but when it craps out, its disturbing. Has anyone ever considered  
9 on filing with the Better Business Bureau on the DSG issues? I am considering it. If all of  
10 those who are unhappy with the DSG clunking out in the lower gears or any other issues it  
11 has had, maybe this is the best approach? I am taking my car into the shop this week. If  
12 they cant fix it then I am really considering asking for a buyback which I really dont want  
13 to do. BTW, I know someone who was telling me he had a VW wth a DSG and he had all  
14 kinds of issues. I dont know if its the same DSG system, just saying what he told me I  
15 really like the S4 but I dont think AUDI is being honest and forthright with the DSG issues.  
16 But I do have another sedan in the family and If these issues continue, I would get rid of  
17 the S4 through a buyback request or some other means, Sell the vette and look into a pre-  
18 owned 2010 911 Turbo PDK. Even a pre-owned is expensive but so far I have heard good  
19 things about the PDK. Anyone hear differently? BTW, thought about a 2010 AUDI R8 too  
20 until I read about the r-tronic issues. AUDI has so much potential, I think they are screwing  
21 it up a bit<sup>23</sup>
- 22 • Complaint on November, 29, 2012 for a 2012 S4 on Audi World: I'm in the midst of  
23 fighting with AoA on this same issue with my '12. My car has 15k miles and it's just gotten  
24 worse over time. Just to confirm it's not me being overly sensitive, I drove a friend's '11  
25 with similar mileage and there was a distinct difference in the way the two cars drove. My  
26 car slipped the clutch MUCH more and his was much smoother than mine. My hypothesis  
27 is that either there is a higher than average number of Mechatronics units that are defective  
28 or that the software gets freaked out by some people's driving habits and gets inordinately  
jerky. Car is going in tomorrow for re-adaptation / 3rd examination. If that does not solve  
the problem, I'm heading for buyback. We shall see.<sup>24</sup>

**Audi Did Not Disclose the Defect to Plaintiffs, the Class, or Subclass Members.**

64. Despite Audi's knowledge of the defect present in Class Vehicles, Audi failed to disclose this unresolved defect to new and subsequent purchasers and lessees of Class Vehicles, and instead chose

<sup>22</sup> *Id.*

<sup>23</sup> <https://www.audiworld.com/forums/s4-b8-platform-discussion-134/new-b8-s4-s-tronic-design-defect-2817650/page10/>

<sup>24</sup> *Id.*

1 to omit conveying this information to buyers at the time they were considering purchasing Class Vehicles.  
2 Upon information and belief, Audi continues to manufacture and sell Class Vehicles equipped with the  
3 defective transmissions without any disclosure to consumers about these hidden defects.

4 65. Audi's TSBs concerning the transmission problems in Class Vehicles are not directly sent  
5 to purchasers and did not fully disclose the pervasiveness of the defect, or the uncertain nature of the  
6 prescribed fixes.

7 66. Plaintiff, Class Members, and Subclass Members would not have purchased or leased their  
8 vehicles, or would have paid significantly less for them, had they known of the transmission defect at the  
9 point of sale. Plaintiff, Class Members, and Subclass Members were denied information that was material  
10 to their purchase or lease and material to their willingness to use their Class Vehicles when Audi did not  
11 disclose the defect to them at the point of sale. Such information was material to a reasonable consumer  
12 in making a decision to purchase, lease, or use a Class Vehicle.

13 **Audi's Express and Implied Warranties Cover Repairs and Replacements Associated with the**  
14 **Transmission Defect, But Audi Has Been Unable to Repair the Defect.**

15 67. For each Class Vehicle sold by Audi, an express written warranty was issued which  
16 covered the vehicle, including but not limited to, the transmission system.

17 68. Audi provided all purchasers and lessees of the Class Vehicles with a New Vehicle Basic  
18 Limited Warranty. The Limited Warranty "begins on the date the vehicle is delivered to either the original  
19 purchaser or the original lessee; or if the vehicle is first placed in service as a demonstrator or company  
20 car, on the date such vehicle is first placed in service."

21 69. Under its New Vehicle Basic Limited Warranty, Audi expressly warranted that: "Audi  
22 provides Limited New Vehicle Warranty coverage for your vehicle. The warranty duration is 4 years or  
23 50,000 miles from your vehicle's in-service date, whichever occurs first, and covers defects in  
24 manufacturer's material and workmanship." The express warranty provides that "The warranty covers  
25 repair or replacement to correct a defect in manufacturer's material and workmanship. Your authorized  
26 Audi dealer will repair the defective part or replace it with a new or remanufactured Genuine Audi Part  
27 free of charge."  
28



1           70.     Upon information and belief, when Audi has replaced its defective transmissions under  
2 warranty, it is replacing the transmissions with equally defective transmissions.

3           71.     In addition, Audi sold or leased the Class Vehicles to the Plaintiff, Class, and Subclass  
4 Members under an implied warranty of merchantability. Audi's express warranty confirms that Audi  
5 offers implied warranties, including the implied warranty of merchantability, for the same duration as the  
6 express warranty. Audi impliedly warranted that the Class Vehicles were merchantable in that they were  
7 in a safe and non-defective condition for use by their owners or lessees for the ordinary purpose for which  
8 they were intended, and were not otherwise injurious. Audi is under a duty to design, construct,  
9 manufacture, inspect, and test the Class Vehicles so as to make them suitable for the ordinary purposes  
10 of their use—to safely transport the driver and any passengers during ordinary use.

11           72.     Audi breached its warranties for the Class Vehicles when it designed, manufactured, and  
12 sold Class Vehicles with defects in the transmission system, and when it refused to or was unable to  
13 repair the defect in the transmission when the transmission failed under warranty. The Class Vehicles are  
14 defective, unsafe, unfit for the ordinary purposes for which they are intended to be used, and therefore,  
15 not merchantable.

16                   **PLAINTIFF'S INDIVIDUAL ALLEGATIONS**

17           73.     Like all new or certified pre-owned Audi vehicles, Plaintiff's Class Vehicle came with  
18 Audi's New Vehicle Basic Limited Warranty. This warranty was a material factor in Plaintiff's decisions  
19 to purchase his Class Vehicle.

20           74.     At the time of Plaintiff's purchase, Audi failed to disclose, concealed, and/or omitted  
21 divulging to Plaintiff and other potential buyers its knowledge of consumer complaints, malfunctions,  
22 and material facts related to the Class Vehicles' defective transmission.

23           75.     Before Plaintiff purchased his Class Vehicle, Plaintiff was never informed of, or aware  
24 of, the Class Vehicles' transmission failures. Plaintiff was unaware of the TSBs that address the Class  
25 Vehicles' defect and recommend a complete Mechatronic replacement and other significant repairs to  
26 address the transmission defect.

27           76.     Had Audi disclosed the transmission defect, Plaintiff would not have purchased the Class  
28 Vehicle or would have paid significantly less for it. Plaintiff was denied information material to his



1 purchase and that would affect his willingness to drive the Class Vehicles. Instead, Plaintiff relied upon  
2 Audi's express and implied warranties that the Class Vehicles were fit and safe for their ordinary purpose,  
3 merchantable, and were sold free from defects.

4 77. Plaintiff used his Class Vehicle in a reasonable manner and followed maintenance  
5 recommendations.

6 **John Chess Purchased A 2010 Audi S4 with the Undisclosed Transmission Defect.**

7 78. On May 26, 2010, Plaintiff John Chess purchased a new 2010 Audi S4. He purchased the  
8 Class Vehicle for approximately \$62,287.00 from Audi Livermore in Livermore, California. At the time  
9 of purchase, Plaintiff Chess's vehicle came with a 3-year or 36,000 mile warranty, whichever came first.

10 79. Audi Livermore was an adjoining link in the distribution chain from Audi to Plaintiff  
11 Chess. In addition, Plaintiff Chess is an intended third-party beneficiary of any contract between Audi  
12 Livermore and Audi corporate regarding his Class Vehicle. Audi Livermore was not the intended end  
13 user or beneficiary of the Class Vehicle.

14 80. In approximately February 2011 with 7,988 miles on the Class Vehicle, Plaintiff Chess's  
15 car was towed to the dealership because the water pump had failed and the car over heated. Plaintiff  
16 Chess' wife called the dealership and complained to a member of the Audi Livermore staff, Johnny  
17 Cheng, and told him that her vehicle had come to a rough stop and the transmission was not working  
18 properly. Plaintiff Chess and his wife were told the vehicle was fine, and there was no issue with the  
19 transmission with a rough stop.

20 81. On March 21, 2017, with 54,079 miles on his Class Vehicle, Plaintiff Chess's vehicle was  
21 taken to Audi Livermore for an inspection. There, Plaintiff Chess and his wife stated that the vehicle,  
22 while at a stop, wants to jump forward and "buck." Audi Livermore performed an inspection and found  
23 no faults in the system and could not replicate the problem. Plaintiff Chess and his wife were charged  
24 \$160 for this work.

25 82. On June 5, 2018, with 60,745 miles on his Class Vehicle, Plaintiff Chess's vehicle was  
26 taken to Audi Livermore for an inspection. There, Plaintiff Chess' wife stated the vehicle lurches and  
27 shutters when coming to a stop and this issue also manifests when accelerating and shifting from first to  
28 second gear. The technician noted during the visit "ROADTESTED WITH THE CUSTOMER AND

1 VERIFIED A BANGING FROM THE TRANSMISSION A SECOND AFTER COMING TO A STOP.  
 2 FEELS LIKE BEING REAR ENDED AT LOW SPEED. CHECKED AND TOPPED OFF FLUID  
 3 LEVEL. RESET TRANSMISSION ADAPTION. ROADTESTED, BANGING WHEN STOPPED  
 4 RETURNED AFTER 20 MILES. CONTACTED TECHNICAL ASSISTANCE AND WAS  
 5 PROVIDED WITH AN UPDATED SOFTWARE VERSION. CONNECTED CHARGER AND  
 6 PERFORMED SOFTWARE UPDATE VIA SVM. ROADTESTED AGAIN, BANGING IS  
 7 SIGNIFICANTLY REDUCED IN INTENSITY AND FREQUENCY. RECOMMEND  
 8 ROADTESTING WITH THE CUSTOMER TO VERIFY REPAIRS. TRANSMISSION NOW  
 9 OPERATES COMPRABLE TO SIMILAR VEHICLES.”

10 83. Plaintiff Chess’s Class Vehicle had approximately 68,820 miles on the odometer at the  
 11 time the original complaint was filed. Plaintiff Chess would not have purchased the vehicle had he known  
 12 of the transmission defect. He did not receive the benefit of his bargain. He fears that his vehicle is worth  
 13 significantly less as a result of the transmission defect, and as a result, would have a severely diminished  
 14 resale value.

### 15 CLASS ACTION ALLEGATIONS

16  
 17 84. Pursuant to Rules 23(b)(2), and/or 23(b)(3) of the Federal Rules of Civil Procedure,  
 18 Plaintiff will seek certification of a nationwide class defined as follows:

19 **All persons and entities who purchased or leased a Class Vehicle (i.e., 2010, 2011 or 2012**  
 20 **Audi S4; or, 2010, 2011 or 2012 Audi S5) with a DSG transmission in the United States or**  
 21 **Puerto Rico (the “Class”).**

22 85. Plaintiff also seeks certification of a California Subclass defined as follows:

23 **All persons who purchased or leased a Class Vehicle (i.e., 2010, 2011 or 2012 Audi S4; or,**  
 24 **2010, 2011 or 2012 Audi S5) with a DSG transmission and who purchased or leased the**  
 25 **vehicle in and/or reside in California.**

26 86. Plaintiff reserves the right to amend or change the class definitions prior to class  
 27 certification as necessary to conform with the facts as clarified through discovery and litigation.

28 87. The Class and Subclass definitions specifically exclude:

- a. all persons who assert personal injury claims arising from or relating to the transmission failures in their Class Vehicle(s);
- b. all persons who have had their Class Vehicle re-purchased or “bought back” by Audi (whether the buy-back was required by law or was solely pursuant to agreement);
- c. any persons or other entity currently employed by or affiliated with Defendant;
- d. any person, firm, trust, corporation, or other entity who purchased a Class Vehicle from Defendant strictly for resale;
- e. any Judge presiding over this action; and
- f. all persons who properly execute and file a timely request for exclusion from the Class.

88. Numerosity: the Class and Subclass are comprised of tens of thousands of Audi owners throughout the United States, making joinder impractical. Moreover, the Class and Subclass are composed of an easily ascertainable, self-identifying set of individuals and entities who purchased Class Vehicles. The members of the Class and Subclass are so numerous that joinder of all members is impracticable. The precise number of Class and Subclass Members can be ascertained only through discovery, which includes Defendant’s sales, service, and complaint records. The disposition of their claims through a class action will benefit both the parties and this Court. Furthermore, Members of the Class and Subclass may be identified from records maintained by Audi and its agents, and may be notified of the pendency of this action by mail, or other appropriate means, using a form of notice customarily used in consumer class actions.

89. Commonality: The critical questions of law and fact common to the Class and Subclass that will materially advance the litigation include, but are not limited to, the following:

- a. Whether the transmissions installed by Defendant in the Class Vehicles were defective;
- b. Whether Defendant knew about the defective transmissions in Class Vehicles when they sold the Class Vehicles;
- c. Whether refusing or failing to repair the transmission defect constitutes a breach of the express warranty;

- d. Whether refusing or failing to repair the transmission defect constitutes a breach of the Magnuson-Moss Warranty Act;
- e. Whether the Defendant's concealment of and/or failure to disclose the defect in Class Vehicles constitutes unfair or deceptive acts or practices in violation of state consumer protection statutes;
- f. Whether information about the defect was material to a reasonable consumer in making a decision to purchase, lease, or use Class Vehicles;
- g. Whether Audi's express warranty has failed its essential purpose;
- h. Whether members of the Class and Subclass are entitled to be notified and warned about the transmission defect and are entitled to the entry of final and injunctive relief compelling Defendant to issue a notification and warning to all Class and Subclass Members concerning such a defect;
- i. Whether Defendant deliberately misrepresented or failed to disclose or concealed material facts to Plaintiffs and the Class and Subclass Members;
- j. Whether Defendant's repairs to its transmissions are effective;
- k. Whether Defendant replaces its defective transmissions with equally defective transmissions;
- l. Whether Defendant acted or refused to act on grounds generally applicable to the Class and/or Subclass, thereby making the award of equitable relief and/or restitution appropriate to the Class as a whole;
- m. Whether Plaintiff and Class and Subclass Members would have purchased their Class Vehicles, or whether they would have paid a lower price for them, had they known of the transmission failures;
- n. Whether Plaintiff and Class and Subclass Members are entitled to actual damages; and
- o. Whether Plaintiff and the Class and Subclass are entitled to restitution and/or disgorgement.

1           90.    Typicality: Plaintiff's claims are typical of the claims of the members of the Class and  
2 Subclass, as all such claims arise out of Defendant's conduct in designing, manufacturing, warranting,  
3 and selling the Class Vehicles with the same transmission defect.

4           91.    Adequate Representation: Plaintiff will fairly and adequately protect the interests of the  
5 Class Members and have no interests antagonistic to those of the Class. Plaintiff has retained counsel  
6 experienced in the prosecution of complex class actions including, but not limited to, consumer class  
7 actions involving, inter alia, breach of warranties, product liability, and product design defects.

8           92.    Predominance: This class action is appropriate for certification because questions of law  
9 and fact common to Class and Subclass Members predominate over questions affecting only individual  
10 members.

11           93.    Superiority: A class action is superior to other available methods for the fair and efficient  
12 adjudication of this controversy, since individual joinder of all Class and Subclass Members is  
13 impracticable. Should individual Class and Subclass Members be required to bring separate actions, this  
14 Court would be confronted with a multiplicity of lawsuits burdening the court system while also creating  
15 the risk of inconsistent rulings and contradictory judgments. In contrast to proceeding on a case-by-case  
16 basis, in which inconsistent results will magnify the delay and expense to all parties and the court system,  
17 this class action presents far fewer management difficulties while providing unitary adjudication,  
18 economies of scale and comprehensive supervision by a single court. Because the damages suffered by  
19 each Class and Subclass Member are relatively small compared to the expense and burden of prosecuting  
20 this compelling case against a well-financed, multibillion-dollar corporation, this class action is the best  
21 avenue for each Class and Subclass Member to redress the harm that Audi caused.

22           94.    This lawsuit is maintainable as a class action under Federal Rule of Civil Procedure  
23 23(b)(2) because Defendant has acted or refused to act on grounds that are generally applicable to the  
24 Class and Subclass Members, thereby making final injunctive relief appropriate with respect to the Class  
25 and Subclass.

26           95.    This lawsuit is maintainable as a class action under Federal Rule of Civil Procedure  
27 23(b)(3) because the questions of law and fact common to the members of the Class and Subclass  
28 predominate over any questions that affect only individual Members, and because the class action

1 mechanism is superior to other available methods for the fair and efficient adjudication of the  
2 controversy.

### 3 **TOLLING OF STATUTES OF LIMITATIONS**

4 96. Discovery Rule. Plaintiff's claims accrued upon discovery that the transmission system  
5 that Audi designed, manufactured, and installed into the Class Vehicles suffered from transmission  
6 failures, and that the transmission failures could not be repaired. While Audi knew and omitted the fact  
7 that the transmissions suffer from a defect that causes failures, Plaintiff, Class Members, and Subclass  
8 Members could not and did not discover this fact through reasonable diligent investigation until after  
9 they experienced failures and reasonably excluded other potential causes of the failures.

10 97. Active Concealment Tolling. Any statutes of limitations are tolled by Audi's knowing and  
11 active concealment of the fact that the transmission suffered from a defect. Audi kept Plaintiff and all  
12 Class and Subclass Members ignorant of vital information essential to the pursuit of their claims, without  
13 any fault or lack of diligence on the part of Plaintiff. The details of Audi's efforts to conceal its above-  
14 described unlawful conduct are in its possession, custody, and control, to the exclusion of Plaintiff and  
15 the Class and Subclass Members. Plaintiff could not reasonably have discovered the fact that the  
16 transmissions suffered from a defect that would cause repeated and significant failures.

17 98. Estoppel. Audi was and is under a continuous duty to disclose to Plaintiff, as well as Class  
18 and Subclass Members, the true character, quality, and nature of the transmissions. At all relevant times,  
19 and continuing to this day, Audi knowingly, affirmatively, and actively misrepresented and omitted the  
20 true character, quality, and nature of the transmissions. The details of Audi's efforts to conceal its above-  
21 described unlawful conduct are in its possession, custody, and control, to the exclusion of Plaintiff and  
22 Class and Subclass Members. Plaintiff and Class and Subclass Members reasonably relied upon Audi's  
23 knowing and/or active omissions. Based on the foregoing, Audi is estopped from relying upon any  
24 statutes of limitation in defense of this action.

25 99. Equitable Tolling. Audi took active steps to omit the fact that it wrongfully, improperly,  
26 illegally, and repeatedly manufactured, marketed, distributed, sold, and/or leased the Class Vehicles with  
27 the defective transmissions. The details of Audi's efforts to conceal its above-described unlawful conduct  
28 are in its possession, custody, and control, to the exclusion of the Plaintiff and Class and Subclass

Members. When Plaintiff learned about this material information, he exercised due diligence by thoroughly investigating the situation, retaining counsel, and pursuing his claims. Audi wrongfully omitted its deceitful acts described above. Should it be necessary, therefore, all applicable statutes of limitation are tolled under the doctrine of equitable tolling.

**FIRST CLAIM FOR RELIEF**  
**Breach of Express Warranty**  
**(On behalf of Plaintiff, the Class,**  
**and, in the alternative, the California Subclass)**

100. Plaintiff Chess, individually and on behalf of the Class, and, in the alternative, for the California Subclass, hereby incorporates each and every allegation from the previous paragraphs as though fully set forth herein.

101. Each Class Vehicle sold by Audi included an express New Vehicle Limited Warranty that covered, in part, the transmission and warranted that it would repair or replace any defects in materials and workmanship in the Class Vehicles through 48-months or 50,000 miles. In addition, through its Certified Pre-Owned Vehicle program, Audi extends its warranty up to 72-months or 100,000 miles.

102. Audi provided all purchasers and lessees of new Class Vehicles with a New Vehicle Limited Warranty, which is transferrable with the sale of the vehicle. The Express New Vehicle Limited Warranty states “Audi provides Limited New Vehicle Warranty coverage for your vehicle. The warranty duration is 4 years or 50,000 miles from your vehicle’s in-service date, whichever occurs first, and covers defects in manufacturer’s material and workmanship.” Further, the express warranty further provides that “The warranty covers repair or replacement to correct a defect in manufacturer’s material and workmanship. Your authorized Audi dealer will repair the defective part or replace it with a new or remanufactured Genuine Audi Part free of charge.”

103. The DSG transmissions of the Class Vehicles were defective at the point of sale, and when replaced under warranty, upon information and belief, are equally defective.

104. Audi knowingly and actively concealed and conceals that its DSG transmission suffers from a defect from Plaintiff, the Class, and the public. Despite its knowledge of the DSG transmission defect, Audi continues to manufacture, advertise, distribute, and sell the Class Vehicles without



1 disclosing the safety problems that prevent the Class Vehicles from properly changing gears,  
2 accelerating, or driving smoothly.

3 105. The details of Audi's efforts to conceal its above-described unlawful conduct are in its  
4 possession, custody, and control, to the exclusion of Plaintiff and the Class and Subclass Members.  
5 Plaintiff could not reasonably have discovered the fact that the transmissions suffered from a defect at  
6 the point of purchase.

7 106. Plaintiff gave notice to Audi of his vehicle's defect through its dealers and agents and  
8 through its customer service division. Audi was also on notice of the defect by virtue of the NHTSA and  
9 other website complaints as set forth herein, as well as its internal investigation of the defect in Class  
10 Vehicles that, upon information and belief, began as early as 2010.

11 107. Audi breached its warranties by offering for sale and selling defective vehicles that were  
12 defective and unsafe from the point of sale, and by refusing to recognize or permanently repair the defect,  
13 thereby subjecting the occupants of the Class Vehicles purchased or leased to damages, risks of loss and  
14 injury.

15 108. Audi's warranty to repair the Class Vehicles fails in its essential purpose because the  
16 contractual remedy is insufficient to make Plaintiff, the Class, and the Subclass whole. Audi has refused  
17 to replace the transmission with a different, functional transmission, and as Audi's TSBs demonstrate  
18 (*see supra* ¶¶ 26-32), Audi is incapable of repairing the defect, despite repeated attempts to do so.

19 109. Accordingly, Plaintiff, the Class, and the Subclass are not limited to the limited warranty  
20 of "repair," because the warranty fails of its essential purpose and Plaintiff, the Class, and the Subclass  
21 seek all remedies allowed by law.

22 110. Audi's breach of its express warranties proximately caused the Plaintiff, the Class, and  
23 the California Subclass to suffer damages in excess of \$5,000,000.00.

24 111. Plaintiff and the Class, or in the alternative the California Subclass, seek full  
25 compensatory damages allowable by law, the diminished value of the Class Vehicles, repair or  
26 replacement of all Class Vehicles, the refund of money paid to own or lease all Class Vehicles, and  
27 punitive damages and appropriate equitable relief including injunctive relief, restitution, a declaratory  
28

judgment, and a court order enjoining Audi's wrongful acts and practices, and any other relief to which Plaintiff and the Class or the California Subclass may be entitled, including attorneys' fees and costs.

**SECOND CLAIM FOR RELIEF**  
**Violation of the Magnuson-Moss Warranty Act**  
**15 U.S.C. § 2301, *et seq.***  
**(On behalf of Plaintiff, the Class**  
**and, in the alternative, the California Subclass)**

112. Plaintiff Chess, individually and for the Class and, in the alternative, the California Subclass, hereby incorporate every allegation from the previous paragraphs as though fully set forth herein.

113. Plaintiff, the Class, and Subclass Members are "consumers" within the meaning of the Magnuson-Moss Act, 15 U.S.C. § 2301(3).

114. Audi is a "supplier" and "warrantor" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4) and (5).

115. The Class Vehicles at issue are "consumer products" within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(6).

116. For each Class Vehicle, Audi issued an express New Vehicle Limited Warranty that covered the vehicle, including but not limited to the transmission, and which warranted that Audi would repair or replace any part that is defective in material or workmanship under normal use.

117. Audi breached its express warranties by offering for sale and selling defective vehicles that were, by their manufacturer, defective and unsafe at the point of sale, and failing to repair said vehicles, thereby subjecting the occupants of the Class Vehicles purchased or leased to damages and risks of loss and injury.

118. Audi's written warranties relate to the future performance of its vehicles because it promised that the transmission of the Class Vehicles would perform adequately for a specified period of time or mileage, whichever came first.

119. Audi has breached and continues to breach its written warranties of future performance, thereby damaging Plaintiff and similarly situated Class and Subclass Members, because the Class Vehicles fail to perform as represented due to an undisclosed transmission defect that was present at the

1 point of sale. Audi failed to fully cover or pay for necessary inspections, repairs and/or vehicle  
2 replacements for Plaintiff, the Class, and the Subclass.

3 120. Audi is under a continuing duty to inform its customers of the nature and existence of  
4 potential defects in the Class Vehicles.

5  
6 121. Plaintiff and the Class, or in the alternative the Subclass, seek full compensatory damages  
7 allowable by law, the diminished value of the Class Vehicles, the repair or replacement of all Class  
8 Vehicles, the refund of money paid to own or lease all Class Vehicles, and punitive damages, and  
9 appropriate equitable relief including injunctive relief, restitution, a declaratory judgment, a court order  
10 enjoining Audi's wrongful acts and practices, and any other relief to which Plaintiff and the Class or,  
11 alternatively, the California Subclass, may be entitled, including attorneys' fees and costs.

12  
13 **THIRD CLAIM FOR RELIEF**  
14 **Violation of the Declaratory Judgment Act**  
15 **28 U.S.C. § 2201, *et seq.*, and Fed. R. Civ. P. 57**  
16 **(On behalf of Plaintiff, the Class,**  
17 **and, in the alternative, the California Subclass)**

18 122. Plaintiff individually, and for the Class and, in the alternative, the California Subclass,  
19 hereby incorporates each and every allegation from the previous paragraphs as though fully set forth  
20 herein.

21 123. Declaratory relief is intended to minimize "the danger of avoidable loss and unnecessary  
22 accrual of damages." 10B Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice  
23 and Procedure § 2751 (3d ed. 1998).

24 124. There is an actual controversy between Audi and Plaintiff concerning whether the Class  
25 Vehicles' transmission defect creates an unreasonable safety hazard. Pursuant to 28 U.S.C. § 2201, the  
26 Court may "declare the rights and legal relations of any interested party seeking such declaration, whether  
27 or not further relief is or could be sought."

28 125. Despite long knowing the nature of the Class Vehicles' defect Audi refuses to publicly  
acknowledge that the Class Vehicles contain a defect. Instead, Audi has not advised its consumers and

1 other members of the public of the defect. Audi has uniformly refused to permanently repair the defect  
 2 and, upon information and belief, does not always cover the defect under the warranty.

3 126. Accordingly, based on Audi's failure to act, Plaintiff seeks a declaration that the Class  
 4 Vehicles are defective, as alleged herein, covered under the New Vehicle Limited Warranty has failed of  
 5 its essential purpose because Audi cannot repair or replace the defective transmissions. The defective  
 6 nature of the Class Vehicles is material and requires disclosure to all persons who own them.

7 127. The declaratory relief requested herein will generate common answers that will settle the  
 8 controversy related to the alleged defective nature of the Class Vehicles and the reasons for their repeated  
 9 failure. There is an economy to resolving these issues as they have the potential to eliminate the need for  
 10 continued and repeated litigation.

11 **EQUITABLE INJUNCTIVE AND DECLARATORY RELIEF**  
 12 **(On behalf of Plaintiff, the Class**  
 13 **and, in the alternative, the California Subclass)**

14 128. Plaintiff individually, and for the Class and, in the alternative, the California Subclass,  
 15 hereby incorporates each and every allegation from the previous paragraphs as though fully set forth  
 16 herein.

17 129. Audi is under a continuing duty to inform its customers of the nature and existence of  
 18 potential defects in the vehicles it sells.

19 130. Audi acted uniformly towards Plaintiff, the Class, and Members of the California Subclass  
 20 by refusing to adequately warn about the transmission defect or offer a permanent repair of the defect.

21 131. Plaintiff, the Class, members of the California Subclass, and the public will suffer  
 22 irreparable harm if Audi is not ordered to properly repair all of the Class Vehicles immediately, offer  
 23 rescission to Plaintiff, the Class, and the California Subclass by repurchasing their Class Vehicles for  
 24 their full cost and reimbursing the lessees of the Class Vehicles the monies they have paid toward their  
 25 leases, recalling all defective vehicles that are equipped with the defective transmissions, and ceasing and  
 26 desisting from marketing, advertising, selling, and leasing the Class Vehicles.

27 132. Based on the facts alleged herein, and the conduct of Audi in failing to disclose, address,  
 28 or resolve the problems with the Class Vehicles, Plaintiff and the Class, or alternatively the California  
 Subclass, seek appropriate equitable relief, including injunctive relief, a declaratory judgment, a court

1 order enjoining Audi's wrongful acts and practices, the repair or replacement of all Class Vehicles, the  
 2 refund of money paid to own or lease all Class Vehicles, and any other relief to which they may be  
 3 entitled.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, pray for a  
 6 judgment against Defendant as follows:

- 7 A. For an order certifying the Class and/or Subclass, appointing Plaintiff as the  
 8 representative of the Class and each Subclass, and appointing the law firms  
 9 representing Plaintiff as counsel for the Class;
- 10 B. For a declaration that the transmissions in Class Vehicles are defective, the remedial  
 11 work necessary to correct the defective transmissions is covered by the New Vehicle  
 12 Limited Warranty, the New Vehicle Limited Warranty fails of its essential purpose,  
 13 and that applicable statutes of limitations are tolled based upon Defendant's knowing  
 14 concealment of the defect;
- 15 C. For other such injunctive, declaratory, and equitable relief as is warranted by the facts  
 16 and law;
- 17 D. For compensatory damages and/or restitution or refund of all funds acquired by  
 18 Defendant from Plaintiff as a result of Defendant's unlawful, unfair, deceptive, and  
 19 unconscionable practices described herein and in the consumer protection statute of  
 20 California, including actual, statutory, and/or trebled damages to the extent permitted  
 21 by law in an amount to be proven at trial;
- 22 E. Trebling of damages suffered by the Class and/or Subclass;
- 23 F. Payment of costs and expenses of suit herein incurred;
- 24 G. Both pre-and post-judgment interest on any amounts awarded;
- 25 H. Payment of reasonable attorneys' fees and expert fees;
- 26 I. An order requiring Defendant to repair or replace the transmissions in the Class  
 27 Vehicles.
- 28 J. Punitive damages where available; and

K. Such other and further relief as the Court may deem proper.

**DEMAND FOR JURY TRIAL**

Plaintiff, the Class, and the California Subclass hereby demand trial by jury of all issues triable by right.

Date: July 6, 2021

s/Gregory F. Coleman

Gregory F. Coleman\*

**MILBERG COLEMAN BRYSON  
PHILLIPS GROSSMAN PLLC**

First Tennessee Plaza  
800 S. Gay Street, Suite 1100  
Knoxville, TN 37929  
Telephone: 865-247-0080  
Facsimile: 865-522-0049  
gcoleman@milberg.com

Daniel K. Bryson\*

J. Hunter Bryson\*

**MILBERG COLEMAN BRYSON  
PHILLIPS GROSSMAN PLLC**

900 W. Morgan St.  
Raleigh, NC 27603  
Telephone: 919-600-5000  
Facsimile: 919-600-5035  
dbryson@milberg.com  
hbryson@milberg.com

Deborah R. Rosenthal (# 184241)

**SIMMONS HANLY CONROY LLC**

100 N. Sepulveda Blvd., Suite 1350  
Los Angeles, CA 90245  
Telephone: 415-536-3986  
Facsimile: 415-537-4120  
drosenthal@simmonsfirm.com



1 Mitchell M. Breit\*  
2 **MILBERG COLEMAN BRYSON**  
3 **PHILLIPS GROSSMAN PLLC**  
4 112 Madison Avenue, 7th Floor  
5 New York, NY 10016  
6 Telephone: 212-784-6400  
7 Facsimile: 212-213-5949  
8 mbreit@milberg.com

9 \* admitted *pro hac vice*

10 *Attorneys for the Plaintiffs and the proposed Class and*  
11 *Subclass*  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that the foregoing pleading, Fourth Amended Class Action Complaint, was filed electronically with the Clerk of Court using the ECF system, which sent notification of such filing to all counsel of record on this 6<sup>th</sup> day of July, 2021.

*s/Gregory F. Coleman*

Gregory F. Coleman